

THE
GRAND INSTRUCTIONS
TO THE
COMMISSIONERS
APPOINTED TO FRAME
A NEW CODE of LAWS
FOR THE
RUSSIAN EMPIRE:

COMPOSED BY
Her Imperial Majesty CATHERINE II.
EMPRESS of all the RUSSIAS.

To which is prefixed,
A DESCRIPTION of the Manner of opening the
COMMISSION, with the ORDER and RULES
for electing the COMMISSIONERS.

Translated from the Original, in the RUSSIAN Language,
By MICHAEL TATISCHEFF, a RUSSIAN Gentleman;
And published by PERMISSION.

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BY MICHAEL TAYLOR

AND

TO WHICH IS

A DISCUSSION OF THE

COMMISSION

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FOR

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THE
P R E F A C E
BY THE
T R A N S L A T O R.

THE small Tract, which I printed and distributed at the latter End of the last Year, under the Title of “ A Description of the Manner in which the Commission for composing a New Code of Laws was opened at Moscow,” was honoured with the kindest Reception by a great Number of Persons of the most distinguished Rank in this Nation. Their high Approbation of the great and humane Scheme of Her Imperial Majesty, which they were pleased to express in the politest and strongest Terms, and

and their earnest Wishes to see an Account of the Progress and Completion of so uncommon, and so difficult a Task, attempted by an Imperial Legislatrix, induced me to apply for Her most gracious Permission to publish the following Work; which I received, from Time to Time, as soon as it was made publick at St. Petersburg; a Remark which the Reader will readily make at first Sight, by the respective Dates. Should this Book, which I now presume to lay before the Publick, be deemed worthy of their Notice, and meet with the same candid and kind Reception, it will prove the strongest Encouragement to me to proceed in the Translation of the remaining and most interesting Part, the CODE OF LAWS, as soon as ever it shall be made publick by Her Imperial Authority.

But to give the Reader a more perfect Idea of the Benevolence and comprehensive Views of Our Imperial Legislatrix, who extends Her maternal Care alike to the meanest and most remote Subjects in Her immense
Dominions,

Dominions, it will be proper just to throw in a short Sketch of the present State of the RUSSIAN Empire; which will more clearly evince, not only the Utility, but even the Necessity of this great Work of Legislation, at the present Juncture.

The numberless Difficulties which the immortal PETER THE GREAT had to encounter in His first Attempts to humanize, and draw His People out of their gross Barbarism, and still grosser Ignorance, have been already recorded by various Historians. Let it suffice to say, that, at his Death, the greatest Loss our Country ever yet sustained, the RUSSIAN Empire appeared like a new Creation: And it will not be thought Presumption to judge, that the same Divine Providence, which crowned His indefatigable Labours with Success, in all His astonishing Enterprizes, called Him into Being, and made Him an Instrument in the Execution of its wise and unfathomable Designs.

But,

But, alas! the Space of twenty-five Years only, was too short for the Completion of a Work, which seemed to require the united Labour of Ages. His Father ALEXIS MICHAELOWICH began, indeed, the great Work of Legislation, and composed a Code of Laws, which the Reader will find quoted in the Grand Instructions. But the bloody intestine and foreign Wars, in which He was engaged during the Course of His Reign, drew off His Attention, and compelled him to leave it extremely imperfect, and consequently frustrated all His Attempts to introduce Manufactures and the Arts into Russia. He was successful in his Wars with Poland, and recovered the Possession of Smolensko, Kiovia, and the Ukraïna; but could make no Impression on the Swedish Territories, which cut him off from all Possibility of Communication with the Baltick. Nor was he able to shake off the shameful Yoke of the Crim Tartars, who had long imposed upon Russia an annual Tribute of 60,000 Rubles.

These

These great Events were reserved by Providence for the ever-memorable Reign of His Glorious Son, PETER I. He raised His Country to Her present envied Height, and made Her the Arbitress of those very Nations from whom She had so lately received Law, and of whom She had been so long the Contempt and Scorn. As PETER I. succeeded His Father ALEXIS MICHAELOWICH in the Government, he succeeded him too in the great Work of Legislation: But his perpetual Avocations to that Multiplicity of Affairs which lay continually upon his Hands, of which too he was the sole first Mover, as well as Conductor, and that long War with Sweden, upon which his Fate and the very Existence of his Empire depended, prevented him from making the wished-for Progress in that important Work. During the short Reigns of CATHERINE I. and PETER II. the Work of Legislation lay dormant, and the busy Reign of ANNA was chiefly taken up in her Wars with the Turks and Swedes, and with Schemes for settling the Succession to the

RUSSIAN Empire in her own Family. To polish and refine the Manners of her People, seems to have found sufficient Employment for the mild and clement Reign of ELIZABETH; yet that shocking Waste of human Lives, which she prevented by the Prohibition of capital Punishment, has for ever endeared her Name to RUSSIA, and stamped her Fame in the Annals of History in more shining and more indelible Characters, than a Reign even of the most splendid Conquests. For History will hand down the Reign of ELIZABETH PETROVNA the Clement to latest Posterity, as an Example worthy the Imitation of the wisest, and most civilized Nations in the Universe.

But as human Prudence is too short-sighted to foresee every Consequence of a Scheme projected by Man, the unwearied Endeavours of PETER THE GREAT to make RUSSIA the Center of the Commerce of the Universe, the mighty Scheme which he had in View, were productive of numerous Evils, which,

in

in his Time, were neither thought of, nor, consequently attended to. It is a received Maxim, founded upon Experience, that Commerce polishes Manners; but, at the same Time, it is a Truth equally well-founded, that Commerce, by supplying the Means for Luxury, corrupts Manners: A Maxim which has been hitherto exemplified in every trading Nation in the Universe. As the Introduction of foreign Customs and foreign Commerce increased, Measures alike necessary for raising our Navy and polishing our Manners, the Luxury of foreign Nations, with all that Train of Evils, which are its inevitable Consequences, increased too in Proportion.

Universal Dissipation took the Lead, and Profligacy of Manners as quickly succeeded. Many of the Lords, who are the general Land-holders, began to squeeze and grind their Peasants, to extort fresh Supplies for the incessant Demands of Luxury. The miserable Peasant, disabled by the heavy Load of
a 2
Taxes,

Taxes, was frequently compelled to abandon his House, and ramble over the whole Empire, in quest of Means to satisfy the oppressive Demands of his rapacious Lord, whilst his wretched Family was neglected at Home, and the Lands lay uncultivated. Thus Agriculture and Population diminished daily, the two greatest Evils which can befall a Nation; but more particularly fatal to RUSSIA, which contains, by the fairest Calculation, more square Miles by one full Third, than the Roman Empire ever did in its greatest Extent, under its victorious Emperor Trajan.

Grievances like these called loudly for Redress from the supreme Head, the only Power which, by the Constitution of RUSSIA, can yield Relief. Her Imperial Majesty CATHERINE II. whose Ears were ever open to the Cries of the meanest of Her Subjects, saw their Grievances with a truly maternal Eye, and determined to apply a speedy and effectual Remedy. Placed upon the Throne by that best and noblest Right, the free united
Voice

Voice and Acclamations of a whole People, She was sure of their unanimous Concurrence, in Support of her wise and well-planned Measures. The CODE of LAWS, both of ALEXIS MICHAELOWICH and PETER I. were, as I before observed, extremely defective; nor could it be expected, that preventive Laws should be made against Evils, which, in their Reigns, were neither foreseen nor thought of. The Law generally proceeded from the Mouth of the Sovereign, and the Ukases; that is, Mandates, or Injunctions from the Throne, were the chief Directions of the State: But as these Ukases were occasional, and, as I may say, *pro tempore* only, and continued in Force till they were repealed by new Ones, the Multiplicity of these Ukases (which increased from Time to Time, and were frequently liable to Mistakes and Contradictions) greatly obstructed the Course of Justice, and reduced the Courts of Judicature to the perplexed Situation of not knowing by which Ukase they ought in Duty to be guided. Facts which Her Imperial Majesty

Majesty has remarked in Her Grand Instructions, as one out of the many Reasons which prevailed upon Her to engage in this great Undertaking. How extensively, how amazingly great the Labours of Her Imperial Majesty must have been, for the Accomplishment of this new and complex Work, the Reader will judge on the Perusal alone of Her Instructions. Not content with a thorough Knowledge of the Laws and Customs of RUSSIA only, She extended Her penetrating and comprehensive Views through ancient and modern Times, and expatiated through every Nation, to the remotest Parts of the Universe; and, in the Words of that fine, though just Compliment, paid to Her Imperial Majesty by Mr. Bibikoff, Marshal of the Deputies *, “ She has collected the
 “ most useful and salutary Customs and Re-
 “ gulations, from every Part of the Earth,
 “ as the laborious Bee extracts its Honey
 “ from every Flower. She has brought them
 “ to her own Inheritance, and has established

* Vide Page 31.

“ and

“ and made them flourish there, subduing
 “ even the Rigour of Her frozen Climate.
 “ She not only sees the Wants of her People,
 “ but searches out, and removes their hidden
 “ Causes. She does not restrain Vice by the
 “ stern Rigour of Justice, but She extirpates
 “ it by the more effectual Means of virtuous
 “ Education.”

It would be an Affront to the Sagacity of
 the English Reader, if I should presume to
 point out the numerous Institutes, which Her
 Imperial Majesty has adopted from the Laws
 and Constitution of this Country, which she
 is pleased to term a People highly renowned
 for the Excellence of their civil Polity; or the
 Wisdom She has shewn in refining upon, and
 meliorating *, if I may be allowed the Term,
 even the best Institutes She has selected. Nor
 have I Occasion to dwell upon that well-
 known Truth, that England has been esteem-
 ed the natural, and I may add, the heredi-
 tary Ally of Russia, ever since the first Dis-
 covery of Archangelgorod by Capt. Chan-

* Vide Chapter X. of the Instructions.

cellor,

cellor, in the glorious Reign of Queen Elizabeth: An ally connected with Russia by the strongest, and most durable of all political Ties, that of mutual Interest; and is, consequently, the most favoured in Russia of any Nation in Europe.

It is certain, that the Wisdom and Excellence of any Scheme, are best demonstrated by the Wisdom and Excellence of the End proposed, and the Propriety of the Means adopted for the Attainment of that End. Let me, therefore, take the Liberty of asking every unprejudiced Reader, Whether, humanly speaking, a wiser, or more excellent End, can be proposed, than the permanent Happiness, even to latest Posterity, of the greatest Empire in the known World; or whether wiser Means could be made use of, than those which Her Imperial Majesty has adopted? This great Scheme, with the End proposed, and the Means employed in carrying it into Execution, I now offer to the Public in this Work, and submit the whole

to their impartial Judgment; happy, if it should meet with the Approbation of one of the most judicious, and most learned Nations in the Universe!

An Imperial Legislatrix is a Phenomenon to be searched for only in the fabulous Ages of Antiquity; yet that rare, and hitherto almost unknown Character is now realized, and exemplified in the Person of the Most Illustrious CATHERINE II. ----- To conquer inveterate and stubborn Prejudices, to alter Customs introduced by Ignorance, nourished by Bigotry, and rooted deep by a long Succession of Ages, is a Labour, more arduous than all the fabled ones of Hercules. Yet this mighty Task Our Imperial Legislatrix has undertaken! Should She be blessed with Success, the World will be enabled to judge, how truly She merits those * high Titles offered to Her by Marshal Bibikoff, in the Name of Her whole People; though Her Imperial Majesty was pleased to decline their

* Vide Page 32.

united Offer. Should it prove abortive, *She Herself* has declared, with the same Magnanimity of Soul, at the Conclusion of Her Instructions, “ That *She* does not wish to survive so disagreeable an Event.” However, the very Attempt must be acknowledged glorious, and truly worthy an Heroine.

But nothing can give a more just Idea of the Merit of our Imperial Legislatrix, or place the general Sense of RUSSIA, upon this great Scheme of Legislation, in a more conspicuous Light, than the just, and pathetick Expressions of his Excellency Prince de Galitzen, the Vice-Chancellor *. This able Statesman, Prince de Galitzin, dwells much, and with great Truth, upon the maternal Tenderness of our Imperial Legislatrix, which extends to the very meanest of Her Subjects: He strongly marks Her ardent Wish to see all Her People enjoy as much Happiness as this World can give. Sentiments, he adds, which have been a constant Rule to Her Imperial Majesty, during the whole Course of Her auspicious Reign. Sen-

* Vide Page 23.

timents to which, under God, he attributes all Her Success, and that Confidence of filial Love to Her Person, so conspicuous in that vast Assembly; and he shews Her Love to Her Country, by the Pains She has taken in composing the Instructions, the great Source and Earnest of the future Happiness of Her People. She is exhibited as an Example worthy the Imitation of all Christian Princes, and the united Body of Her grateful People press eagerly forward to hail Her, Mother of Her Country! the best and most glorious Title a Sovereign can be adorned with.

And, if we read over Her Grand Instructions with the least Attention, we shall find every Line breathing the warmest Sentiments of Love, Mercy, and soft Humanity, not for Her own People alone, but for the whole Race of Mankind. If we remark Her strict Injunctions for the Abolition of Tortures and capital Punishment; if we reflect upon the Abhorrence She has been pleased to express of that inhuman Custom of imprisoning the

Persons of indigent Debtors, a Custom which must ever reflect Dishonour upon every State where it is permitted: If we add to these the full Liberty She has granted to all of a different Persuasion, and Her utter Detestation of all Kind of Persecution for religious Opinions; the unprejudiced Part of Mankind must allow, that no Prince on Earth has a better Claim to that glorious Title, than CATHERINE II. Her Imperial Majesty is now most graciously exerting that Power, which Divine Providence has placed in Her Hands in Support of the religious and civil Liberties of Mankind; not only in Defence of those of the Greek Communion, but of Protestants of every Denomination, who have been so long, and so inhumanly oppressed by the impious Arts and unremitting Tyranny of the Romish Ecclesiasticks: A Measure which must endear the most gracious Name of CATHERINE II. to every Protestant Nation.

But a short Apology for the present Translation is a Debt I yet owe to the Publick.---
When

When I translated the small Tract, which is a Kind of Introduction to the Book, I had no more in View, than to exhibit a short Sketch of the Grandeur and Magnificence of the Russian Ceremonial. But the very kind, though unmerited, Reception my humble Attempt had the good Fortune to meet with, encouraged me to translate, and communicate to the Publick, that most humane and comprehensive Scheme of Legislation, composed by Her Imperial Majesty, which has, at this Time, raised, and fixed the Attention of all Europe: A Work which, I flatter myself, will gratify the Curiosity of an English Reader, and, at the same Time, convey a just Idea of the consummate Wisdom, and diffusive Benevolence of our Imperial Legislatrix, and Her unwearied Labours for the Happiness of Her People.

I have translated this Work as nearly as the very different Idiom of the two Languages will admit of, and hope I have made the whole intelligible to the English Reader;
which

which was the utmost I could hope for, or pretend to. The Russian Style greatly resembles that of the Orientals, and abounds in bold figurative Expressions; which must naturally lose much of their Force and Energy in the Western Languages. Let me add too, that the Number of Slavonic Words made use of by Her Imperial Majesty, and of which the technical Terms, in the civil Laws, almost wholly consist, occasioned new Difficulties in the Course of the Translation. The Slavonic Language bears a great Analogy to the Greek, and is, if possible, more concise and comprehensive; so that I was frequently obliged to translate a single Word by a Periphrasis, as I could not, in the English Language, meet with any single Word capable of conveying the full Force and Extent of its Meaning. The Construction too of the Russian Language is similar to that of the Greek, and increased the Difficulties I was obliged to encounter in translating.

An

An Objection may perhaps be made against the frequent use of Italick Letters, as well as Capitals, in the whole Course of this Work: But as the Original was printed in Characters of various Sizes, there appeared no other Method of distinguishing them to an English Reader.

I have nothing more to add, but to confess, that this Work has no other Merit to plead, than that of Novelty, and Novelty generally engages the Attention of most People. A Work in the Russian Language, translated into English by a Native of RUSSIA, is a Novelty, I believe, never offered before to the English Nation: Let Novelty then be my Plea; and, as a real Novelty, I here humbly offer it to the well-known Candour of the English Nation.

MICHAEL TATISCHEFF.

LONDON,
October 8, 1768.

E R R A T A.

- Page 30, Line 11, after the Words *firmly knew*, read *that when we should*, &c.
 — 43, — 10, after the Letter *b*, insert *e*.
 — 44, — 15, for *the Committee of Dispatch and others of the Members*, read
 the Committee of Dispatch and others, the Members are, &c.
 — 75, — 1, for *conformably*, read *conformable*.
 — 110, — 14, for *independant*, read *independent*.
 — 124, — 6, for *produce*, read *produces*.
 — 127, — 23, for *the most powerful*, read *the more powerful*.
 — 189, — 8, for *stifling their*, read *stifling those*.
 — 208, — 18, for *Revenues*, read *Revenue*.
 — 213, — 8, for *all*, read *every*.

A
 DESCRIPTION
 OF THE
 MANNER

In which the COMMISSION, for composing
 A NEW CODE of LAWS,
 Was opened at MOSCOW,
 On FRIDAY the Third Day of AUGUST, 1767.

ON Monday the 30th of *July*, the Inhabitants of this City saw, with inexpressible Joy, that memorable Event, by which the immortal Glory of *Her Imperial Majesty*, our most gracious Legislatrix and Sovereign, as well as our Prosperity, are now raised through *Her* tender Compassion and Humanity, to the highest Summit; which will not only remain an everlasting Memorial to the latest Posterity; but will more particularly ingrave on the Hearts of the Sons of our Country, in all future Ages, Gratitude, Love, and true Veneration for the Author of this our Happiness: *viz.* The Opening of the Commission established for Composing a new Code of National Laws, which was performed in the following Manner.

B

When

When the Senate had made a most humble Report to *Her Imperial Majesty*, that in consequence of the Publication of the Imperial Manifesto of the 14th of *December* 1766, the greatest Part of the Deputies, chosen out of the whole Empire, were assembled in this ancient Capital, and had produced their full Powers to the Senate; *Her Imperial Majesty*, by *Her* most gracious Order of the 24th of July, was pleased to enjoin the Senate to publish in this City;---that from the expeditious Assembling of the Deputies, *Her Majesty*, with Satisfaction, perceives the Emulation with which the faithful Subjects of *Her* Empire endeavour to answer the arduous Labours in which She engages for the general Good; and therefore, willing not to put off any longer the Opening of the Commission, She, is pleased to order it to be opened on the 30th of July.

To execute this *Her Imperial Majesty's* most gracious Command, the Magistrates, by Order of the Senate, gave public Notice in this City of the Day on which it was to be opened; informing at the same time the Deputies, that they were to meet on the 30th Day of July, at 7 o'Clock in the Morning, at the Chudove Monastery, in order to go to the Cathedral Church of Uspensky, to hear Divine Service, and to take their Oaths. When this solemn Day was come, His Excellency Prince Wiafensky, Attorney General, came to the Chudove Monastery, and placed the High Commissioners of the Senate in different Rooms, where the Deputies of the Provinces were to assemble, that they might shew them their
 9 Places,

Places, and the Order they were to walk in at the Procession. There were three Apartments appointed for that Purpose, and the Commissioners, Narishkin, Maslove, and Maslove receiving the Deputies, as they came in, appointed them their respective Places.

In the mean time *Her Imperial Majesty*, wearing on *Her* Sacred Head a small Crown, and being cloathed in *Her* Imperial Robes, was pleased to go from Anninhoff to Kreml in the following Manner, at nine o'Clock in the Morning.

*The Procession of Her Imperial Majesty, from
Anninhoff to Kreml.*

1.

An open Landau and six Horses for the Master of the Ceremonies, before which two Grooms, and between them the Master of the Waggon rode on Horse-back.

2.

Two Coaches and six Horses with Gentlemen belonging to His Imperial Highness.

3.

Four Coaches and six with Gentlemen of the Chamber.

B 2

4. Three

4.

Three Coaches and six with Chamberlains, a Gentleman of the Horse riding on the right Side of the last Coach.

5.

A Coach and six Horses with *Her Majesty's* Secretaries.

6.

Three Coaches and six with Generals in Chief, a Gentleman of the Horse riding on the right Side of the last of these Coaches.

7.

Two open Coaches and six, in which sat the Marshals of *Her Majesty's* Household with their Wands.

8.

Before *Her Majesty's* Coach rode two Grooms of the Chamber, and between them a Court Harbinger; then ten Lacquays, five on each Side, and behind them eight Grooms on Horse-back: Between the two first of these a Gentleman of the Horse, and between the two last, before the Coach, a Colonel on Horse-back.

9. *Her*

Her Imperial Majesty in a Coach of State drawn by eight Horses; at each Horse's Side a Groom walked with a riding Rod in his Hand, the Coach being preceded by four running Footmen, and two Blacks, who walked two and two.

With the Coach walked eight Haydukes, four on each Side.

On the right Side of *Her Majesty's* Coach rode the first Master of the Horse and a General Adjutant; and on the left the Master of the Horse with the General of the Police.

The Coach was followed by a Company of Cavalier-Guards under the Command of His Excellency Count Gregory Orlove their Chief.

His Imperial Highness in a Coach and six. Four Lacquays rode before the Coach, and between them a Groom of the Chamber; then four Grooms and between the two last of these a Gentleman of the Horse; on the right Side of the Coach was the Master of the Equipage, and on the left a Court Harbinger all on Horse-back.

11.

An occasional or spare Coach and six Horses belonging to the *Empress*.

12.

A Coach and six Horses with the first Lady of Honour, near which a Master of the Equipage rode on Horse-back.

13.

Two Coaches and six with the Ladies of Honour.

14.

Five Coaches and six with the Maids of Honour.

IV. B. All the Servants that belonged to the Court and the Imperial Stables, who attended this Ceremony, were clothed in their State Liveries.

Soon after the Arrival of *Her Imperial Majesty* at the Cathedral Church of *Uspensky*, the Procession of the Deputies began. They walked two and two, and at the Head of them His Excellency Prince *Wiazensky*, having in his Hand a Marshal's Staff given to him by *Her Imperial Majesty* for this most important Occasion. The Order of the Procession of the Deputies was as follows.

1. The Deputies of the highest Order. 2. Those of the Province of *Moscow*. 3. Of *Kiew*. 4. Of *St. Petersburg*.

Peterburgh. 5. Of Novogorod. 6. Of Kasan. 7. Of Astracan. 8. Of Sibiria. 9. Of Ircootfk. 10. Of Smolensko. 11. Of Estonia. 12. of Livonia. 13. Of Wiborg. 14. Of Nisnagorod. 15. Of Little Russia. 16. Of the Country of Ukrain. 17. Of Voronege. 18. Of Belgorod. 19. Of Archangelgorod. 20. Of Orenburg. 21. Of New Russia; and the Deputies of the Districts followed every one after their Chief Deputies. First those of the Gentry, next those of the Cities or Towns, afterwards those of the Gentlemen Farmers and other old Servants of the State, and lastly, those of the common People; and the Deputies of the Military Cossaks had their Places with the Deputies of the Provinces, which they inhabit, after the Deputies of the Towns. During the Time of the Procession, the Multitude of People that had waited from Day-break, not finding Room in the Streets, crowded upon the Roofs, and in the Windows of the Houses: One might see in the Countenance of every Patriot a lively Appearance of Expectation mixed with Eagerness, the earnest Wishes of a prosperous Issue, and at the same Time the Overflowings of a grateful Sensibility.

When the Procession had entered the Cathedral, the Deputies of the Greek Profession heard Divine Service; which was performed amidst a great Assembly of the Clergy, by the Arch-bishop of Krootitsky, whilst those, who were not of the same Communion, stood at the Church Door.

After

After the Holy Service the Litany was begun with an universal Prayer to God Almighty, the Author of every Blessing, "that he would send down his Holy Spirit to assist on this Occasion so important and so agreeable to His Will; and that He would grant Health and Prosperity to the Author of it, the *Gracious Mother* of her Country."

The Prayers were read by Demetrius, Metropolitan of Novogorod, and Deputy of the Holy Synod, assisted by five more Bishops. After the Te Deum was sung, the Bishop of Twer delivered the following admonitory Discourse.

In the Name of the Father, and the Son, and the Holy Ghost.

THE glorious and divine Business now draws to a Conclusion: The Merciful God at length by his Providence compleats his Designs in raising Russia to the highest Degree of Prosperity. Russia advances towards the Summit of its Happiness; the Church of Christ receives the Reward of its Piety. In this beloved Society God plants Tranquillity, Peace, Safety, and his worthy Love; and can there be any Thing more glorious and more divine?

Most

Most Gracious Sovereign! These Blessings Russia owes to *Your Imperial Majesty*; all your Works excite our Wonder and demonstrate Your Care of us. Thou art the Dear Mother of thy Country, Thou hast encompassed Russia on all Sides with Peace! But now Your Zeal for Christian Piety, Your Mercy, which extends even to the meanest of your Subjects, Your maternal Sympathy, by which You share in their Misery, and Your infinite Indulgence encourages them here assembled together before *Your Majesty*, to represent their Necessities. Happy to behold Your disinterested and perfect Justice, Your Love, that embraces all Russia, in order to bring it into a flourishing Situation, to protect Innocence from all Danger and Oppression, to give Stability, and excite in every one the Love of Virtue, and the Detestation of Vice, and prescribing to All the just Bounds of their several Duties! Your Wisdom, which found out suitable Means to attain this End, Your continual Care and Pains, which have so early made a Beginning in this great Affair, bring with it to Russia internal Calmness and Tranquillity. This is most Illustrious; it animates and will still excite our Admiration, and eternize the Glory of Your Name, and that of Russia! This is an Holy Business; for it promotes the Glory of God, and accomplishes His Will, and because it operates through the Participation of His Grace, blessed art Thou of God, who effects all this by Thee!

Venerable Hearers! who prepare yourselves to execute this Design of Our Great and Incomparable Sovereign, consider the Importance of this Business, and prepare
 C yourselves

yourself also to follow Her wise Instructions in co-operating with Her for the Prosperity of Russia; do you not respect the Legislatrix? and do you not represent to yourself that Delight, which the Creator takes in such a Work? Governing this World by His most wise Providence and Holiness, to the Purposes of His infinite Goodness? You know that Law is a Rule, the Foundation of which the Creator laid in Human Nature, and by which he points out, how Men may arrive at Perfection: But when you take into Consideration the Community, can you view the Laws of that Community in any other Light than that of a Rule, which has its Foundation in the Essence of the Community, and points out, how it may attain to its Perfection? Each Community is composed of those People, in whom the Law of God has its Foundation, and for the Perfection of whom He ordained it. Thus the Social Laws, though they immediately relate to the Society in general; yet tend likewise to the Prosperity of every Individual, and therefore, by all the Circumstances of the Community, are the Explication of that Law, which is infused in every one of Us from God. And thus the Laws of a Community agreeing with the Laws of God, do raise Humanity, and bring it to its full Perfection, which glorifies the Great Legislator. The only Foundation of this Law is Love and Veneration towards God, and this forms the true Prosperity of a Man in every Condition.

It is this that moved the Heart of Our most pious Sovereign to establish the Laws in the full Measure of
 Justice,

Justice, and bring near that Prosperity, which before was far from us.

The Means to effect this are found out by the Penetration of Our Sovereign. We know that we shall receive from *Her* the Sacred Laws. Happy is Russia, which has a wise and careful Sovereign; happy are ye, who are allowed the Honour to present *Her* with your Opinions!

Venerable Gentlemen! the Cause of your present Honour and Election to this great Business are those excellent Qualities, which Your Sovereign finds in you; which the Community respects, and with which God has endowed You: Answer then *Her* wise and salutary Instructions, and prove to *Her* your submissive Fidelity. Nourish the Hopes and Expectation of your beloved Country, which honours you so Highly. Cultivate the Talent which you have received from God, devote it to the Almighty by your exact Observance and Conformity to His Law, and render thereby the deserved Honour to the Legislator. Loosen your Love from narrow, selfish Bounds, and extend it to every one. Sympathize and share in the Miseries of Others; respect the Prosperity of every one in the Community, as much as if it was your own; and acknowledge, that even the Misfortunes of the Lowest in the Community, must be looked upon as a Misfortune to the Whole. Do your utmost Endeavours to humanize and restrain them from Vice and Transgression of the Law: Thus Virtue and Faith will remain inviolable, and Russia rise to its full Prosperity.

My Joy is mixed with Dread, when I consider, that You, who are concerned in this momentous Transaction, will appear before God, and by an Oath will confirm—that you are not unduely biaſſed in theſe your Reſolutions.

“ Lord! withdraw the Veil, which ſeparates us from
 “ Thee, that we may clearly ſee Thy Majeſty, to ani-
 “ mate ourſelves with proper Sentiments of Thy Juſtice,
 “ and in the Time of performing theſe our Oaths, to
 “ enjoy Thy Goodneſs!”

Venerable Auditors! you know that God by whom we live, we move, and have our Being, is Omnipotent. You know how ready He is to hear every one that calls for His Aſſiſtance. Herein conſiſts the Proſperity of Ruſſia; you, who ſtand here in this Sacred Place; which the Supreme Being fills with His awful Preſence, and who (you very well know) is the Guardian of Ruſſia, now paſs upon yourſelves both Judgment and Sentence. The dread Solemnity! Be mindful of thoſe Words of God: Zachary, Chap. 5. Ver. 4. “ (*Swearing*) The
 “ Curſe will come into the Houſe of him that ſhall
 “ ſwear by My Name falſely, ſaith God Almighty, and
 “ will make its Dwelling in the Midſt of his Houſe, and
 “ will put an End to his Life.” Remember that Truth and Juſtice are the Baſis of God’s Throne; you approach now to ſwear to God, who ſees all Things; who not only ſhall hear your Words, but knows even the moſt ſecret Reſſes of your Heart, and how far your Thoughts agree

agree with them. You are to swear to the eternal God, in whose Existence you cannot find that Moment, in which He is absent, or forgets these your Oaths, or cannot see whether you perform them or not. You are to swear by your Life to Him, in whose Hands it is like Dust in the Hands of a strong Man. You are to swear by your Salvation to Him, who takes it away from the perfidious, and delivers them to eternal Misery. Verily it is a tremendous Affair, but yet a most glorious one! What is more dear than Life, what is more dear than eternal Happiness? A Man who loses them, loses all for ever. But ye vigilant Patriots and true Sons of your Country, finding your Conscience pure, lay it open before God, and before all the World. Your Words will be a Testimony to us that every one of you will speak thus before this God. God! if I, rejecting the Fear of Thee, and forgetting my submissive Fidelity to Our Sovereign, shall act contrary to this my Oath, and to the Detriment of any Member of the Community, induced either by Interest, or Friendship, Hatred, Envy, or any other Passion, then I deliver up for his Honour, my Honour; for his Substance, my Substance; for his Prosperity, my Prosperity; for his Life, my Life, and even my Salvation to Thee, O just Judge! And as I adore Thee, my God, and Thou art the Witness and Judge of these my Oaths, if I do not perform them, I deliver myself wholly to Thy eternal Judgment, and as this is dreadful to me, so the Truth of Thy Gospel and Thy Laws is just as dear to me. O God! I comfort myself with my Sincerity, and Thy Judgment.

These

These tremendous Words are the Test of your Impartiality, your Sincerity and Love to your Country.

It cannot be supposed, but that this Oath will be discharged by you with due Veneration and Regard to your Creator. His divine Majesty and your own Interest are strong Incitements, which must dispose you to Holiness, for 'tis not sufficient merely to promise and confirm with an Oath by Word of Mouth only, which is to deceive God and the whole Community. This lays a most dreadful Load of Guilt upon the Conscience! To take an Oath with such Deceit, is to represent God as the Protector of a Lie. This is a most unpardonable Offence to His Divinity! To call God to punish for Perjury, is to forget what we are about, and so to plunge ourselves into all Kinds of Misery. This is the dreadful Condition of the Perjured!

Will your Thoughts, which are filled with the most honourable Conceptions of God; will your Hearts, which burn for Him, and for your Country; will your unfeigned Veneration towards your Sovereign, and your good Inclinations suffer you to incur this?

Surely your Consciousness of the dreadful State into which this Oath may plunge a Mortal, will sufficiently enable you to avoid this Evil.

Though you will invoke such Judgments, and take such Oaths before God Almighty; before that God, from
whose

whose Justice no Perjurer can possibly escape, and whose Punishments are eternal Punishments; yet the Purity of your Thoughts represent Him to you benevolent, and the strict Performance of your Oaths is the Means, by which the Wisdom of God chooses to crown you eternally. The Societies, by whom you are chosen, will esteem you honest and true Patriots, and after this Life, yours will be those Habitations, which are peopled with the Faithful, and those who did not deceive God. This is your Glory!

Draw near to the most wise God, to the most powerful, eternal and just Judge. He is now ready to hear your Oaths, and observe your Hearts. Dread His Judgments, and rejoice in His Goodness; which will be the Consequence of accomplishing your Promises---of your Oath. AMEN.

After the Conclusion of this Discourse, pronounced with the amiable Sweetness of Piety, and received with Christian Reverence, the following Oath was read aloud.

“ I The underwritten remember and renew with this
“ my Oath, my submissive Fidelity to *Her Imperial*
“ *Majesty*, and I promise and swear before Almighty
“ God, and His Holy Gospel, that I will employ my
“ sincere Endeavours in this great Affair, the Establish-
“ ment

" ment of New Laws, for which I am chosen a Depu-
 " ty by my Fellow Citizens. I answer likewise to their
 " Trust, which they put in me, that this Affair should
 " be regulated by those Principles that are agreeable to
 " God, tending to promote Humanity and Good Man-
 " ners, and to the Preservation, Welfare and Tranquillity of
 " Mankind; in which Principles true Justice has its
 " Source. I pray God Almighty at the same Time,
 " that He will give me Strength to keep my Heart from
 " every Thought which proceeds from Error, Partiality,
 " Self-interest, Friendship, Enmity, or from rancor-
 " ous Envy, whence might arise Injustice and Severity
 " in my Counsels. As for my own Part I will act in
 " this great Affair, to the best of my Understanding,
 " with inviolable Fidelity to *Her Imperial Majesty*, my
 " most Gracious Sovereign, with Zeal for Her Service,
 " and that of *Her Heir* to the Throne, with Diligence
 " for my beloved Country, with Affection to my Fel-
 " low Citizens. And to conclude this my Oath respect-
 " ing my Behaviour in forming New Laws, I kiss
 " the Cross of my Saviour. Amen. And in Witness
 " thereof I subscribe my Name."

On the Original signed thus: { Sergius Kosmin, actual
 Counsellor of State.

After this the Deputies kissed the Cross and the
 Gospel, and subscribed the Oath upon Desks, which had
 been placed in different Parts of the Church, by Direc-
 tion of Mr. Hoorieff, Chief Secretary of the Senate.
 In

In the mean time *Her Imperial Majesty* came from the Cathedral into the Audience Chamber.

When the Deputies had subscribed the Oath, the Attorney General conducted them to the Imperial Throne, and the *Empress* being under a Canopy of State, the Attorney General respectfully approached, and signified, that he had the Happiness to present to *Her Imperial Majesty* the Deputies assembled by *Her* high Order from all Parts of *Her Majesty's* extensive Dominions. On the left Side of the Throne His Imperial Highness the Grand Duke was present as a Spectator of this august Solemnity, being surrounded by all the most distinguished Persons of the Court, and the Foreign Ministers. On the right Side was the first Lady of Honour, with the Ladies and Maids of Honour, and others of the two first Ranks of Noble Ladies. On the second Step of the Throne stood His Excellency the Vice Chancellor Prince de Galitzin, and near the Throne itself, on the right Hand of *Her Majesty*, there was a Table covered with Velvet, upon which were placed the Instructions, and Regulations of the Commission for enacting the New Laws.

When the Deputies were brought before *Her Imperial Majesty*, the Metropolitan of Novogorod pronounced the following Speech.

D

Most

*Most Illustrious Protectress, Grand Mistress, Empress,
Sovereign of all Russia, the most careful Mother of
our Country!*

The most wise and divinely inspired Enterprize, which *Your Imperial Majesty* has undertaken, the Institution of New Laws, and by them to represent Truth in its natural Purity and Strength, is such an Action, as the Ancients had in the highest Esteem. The present World looks upon it with Admiration, and we, together with them, are astonished, giving Thanks to God, who rules over all Kingdoms, that He has endowed *Your Majesty* with such excellent Wisdom. Greece and Rome were renowned for their Legislators, but to compleat their Fame the enlightening Doctrines of the Gospel were wanting, which are the surest Foundation of Morality. But You in the present Age are led in the right Path. From the Source of Christian Truth You draw Living Water. There were among the Christian Greek Sovereigns some, who were honoured with the Name of Legislators; but the Course of Things, pursuant to the unknown Decrees of God, being changed, the Stream stopped of itself.

But even in these mournful Decrees of Providence, we now behold One favorable for us. For after that, Religion was brought to us from the East, and the Right of Legislation descended, as an Inheritance, to Thee, Our august Head! through the Appointment of Him, who beneficently disposes both of the present and the future. See-
ing

ing this Divine Appointment evidently displayed in You, Our August Sovereign! proceed in the Way You have begun, and we, Thy Subjects, Spiritual and Temporal, will to the same assisting God lift up our Hands; that He may establish Your Health, enlighten You with His eternal Wisdom, and that He may infuse into You that Spirit, by which Truth is emphatically declared. With these our Wishes we will and shall follow *Your Majesty*, by our Readiness, Fidelity, Obedience, and all possible Assistance. We shall follow, thinking ourselves obliged by our Conscience, and the Fear of God's Judgments, to observe whatever is agreeable to Eternal Truth, and instrumental to the Preservation of the Church of God, and of our Country, and what may administer to the Glory of Your Empire. And you who are called to this great Affair, you to whose Prudence and Faithfulness the Community has entrusted its Prosperity, you whom God has chosen and confirmed by His Anointed, do you co-operate together to the Furtherance of *Her Imperial Majesty's* Undertaking. Represent to yourselves the Lord sitting upon Cherubims, examining the Hearts and inward Affections; that God, who loves Truth, and who hates those that transgress His Laws. Keeping this always in your Memory, demonstrate by your Prudence, that your Country might well depend upon you. Shew by your Diligence, that you are zealous Patriots, and by your guiltless Conscience, that you are true Christians: and do Thou, O God! fully establish this beneficial Undertaking, which Thou hast brought to light in our Days, and cause, by Thy excellent Wisdom, that from

it may issue, together with Thy Glory, the Glory of Our Sovereign, and the Glory of our beloved Country! at the happy Beginning of this great Business, the assembled Deputies from the whole Body of the Community, with their Hearts and Mouths, present to Thee, our most careful Protectress! their most submissive Gratitude for Thy Attention to our Prosperity, and Thy Motherly Regard; and most earnestly desire, that Thou wouldst direct us by Thy Wisdom, inspect our Labours with a Mother's compassionate Eye, and that Thou wouldst encompass and defend us by Thy Sovereign Protection: and most submissively we ask for Thy farther high Orders.

To this Speech, which declared the Happiness of Russia in the Choice of Her Representatives, His Excellency Prince de Galitzin the Vice-Chancellor answered by *Her Imperial Majesty's* most high Order, in the following most eloquent and animated Speech, with suitable Exhortations to all, who were engaged in this important Business.

The Speech of the Vice-Chancellor to the Deputies, after their taking the Oaths, and presenting themselves to Her Imperial Majesty.

“ Gentlemen !

“ **H**ER Imperial Majesty, with Satisfaction, beholds
 “ now assembled before *Her* Throne, the Deputies of the Governments under *Her* Empire, and of
 “ all the People subjected to *Her* Scepter, in consequence
 “ of the Manifesto published the 14th of December
 “ 1766, which brought you together.

“ *Her Imperial Majesty*, whose maternal Tenderness
 “ extends to all *Her* Subjects, was much pleased to find
 “ with what Readiness *Her* Order was received by all
 “ Kinds of People, and that every one united in what-
 “ ever might promote this great Affair, for which they
 “ were ordered to send you up to this ancient Metro-
 “ polis. On the Part of *Her Imperial Majesty*, it has
 “ already been set forth in the above ever-memorable
 “ Manifesto ; that *Her* Desire is to see *Her* People en-
 “ joy as much Happiness as this World can give. Sentiments, which have been a Rule to *Her Imperial Majesty* in all *Her* Undertakings, from *Her* Accession
 “ to this Day ; Sentiments, to which, under the Blessing of God, all *Her* Success ought to be attributed ;
 “ and

“ and which have excited that Confidence of filial Love
 “ to *Her* Person, which is not only easy to be perceived
 “ in every One here present, but is clearly shewn from
 “ the many Articles of your Instructions. Nothing is
 “ left, therefore, to *Her Imperial Majesty* to wish for,
 “ and to command you, but this only — that, having by
 “ your Prayers invoked the Assistance of the Giver of all
 “ Goodness, and Friend of Truth, the Almighty God,
 “ and being conscious of the Obligations of your Oaths,
 “ for the taking of which you met here this Day, you do
 “ now go to enter upon that important Work to which
 “ you are called, and for which you receive Instructions
 “ from the Hands of *Her Imperial Majesty*, and a
 “ Commission to enact New Laws, to be offered up to
 “ *Her Imperial Majesty* for *Her* most high Confirma-
 “ tion.

“ Do you begin then this important Business, and
 “ remember at every Line, that you have an Opportu-
 “ nity of proving to yourselves, your Neighbours, and
 “ your Posterity, how strenuous your Endeavours were,
 “ for the Common Good and Welfare of Mankind, and
 “ for introducing into the Hearts of the People good
 “ Manners and Humanity, and for the Promotion of
 “ the Tranquillity, universal Safety and Prosperity of
 “ your dear Fellow Citizens.

“ You have now an Opportunity of rendering your-
 “ selves, and the Age in which you live, famous, and
 “ of

“ of acquiring the Esteem and Gratitude of all future
“ Ages.

“ It is from you that all Nations under the Sun expect
“ an Example; their Eyes are all fixed upon you.
“ Your Fame is in your own Hands; and the Way
“ opened to you to compleat it, will depend on your
“ Agreement in all Things, which are useful to your
“ Country.

“ Finally, *Her Imperial Majesty*, being perfectly
“ assured, that each of you will graft all these Motives
“ on his own Heart, and bring them into Execution
“ with such good Wishes, Diligence, and Love to His
“ Country, as *Her Imperial Majesty* has *Herself* set an
“ Example of, by putting together the Instructions for
“ this important Commission, gives you now full Power
“ to enter on this solemn Undertaking, with which
“ you are intrusted.

“ To this Purpose, depart ye in Peace!”

Whilst this Speech was pronouncing, *Her Imperial Majesty* was most graciously pleased to deliver to the Attorney General the Order and Rules for regulating the Commission established for forming and compiling the new Code of Laws; likewise the particular Instructions for himself concerning this Business, and the more enlarged Instructions for the Commission to enact these
Laws.

Laws. Afterwards the Empress was pleased to admit all the Deputies, of whom there were more than four Hundred, to kiss her Hand, which they did kneeling, and with Hearts filled with Sentiments of everlasting Gratitude.

Her Imperial Majesty, having in this Manner accomplished the first Step which leads our happy Country to lasting Prosperity, Glory, and Greatness, returned to Anninhoff in the State and Manner before mentioned; and the Deputies had their Summons to assemble the next Day, for holding their first Sitting, in order to chuse their Marshal.

ON Sunday the 12th of August the Deputies had the Happiness to testify with Reverence their submissive Thankfulness to *Her Imperial Majesty*, for the Instructions, which Our humane Protectress, the most Illustrious Empress and Sovereign, CATHERINE ALEXIEVNA, by *Her* own Labour had composed, and been pleased to give to them for framing a New Code of Laws. We at the same Time have seen on that Solemn Day, when the Deputies testified their Gratitude, how far Our Mother and Patroness is from extending *Her* Glory by Name only, and not by Actions, and that

that *Her* Tenderness and Piety exceed all the Titles, which express, however truly, the heroick Dignity of *Her* Soul. This will appear from the following Relation of this ever-memorable Transaction.

On the 30th of July last Our most wise and humane Sovereign admitted to *Her* Throne the several Deputies chosen throughout *Her* Empire, and graciously delivered to them the Instructions which *She* had *Herself* composed for their Guide in the Work of Legislation; these being read to the full Assembly of the faithful Deputies, their Hearts, and the Hearts of all present, overflowed with Love, and Obedience to so excellent a Sovereign; who in those *Her* Instructions had laid down the true Rule of Piety, social Love, Justice, civil Freedom, and of whatever conduces to the Preservation of Mankind, and leads it to its highest Prosperity. They all admired the Wisdom of those *Her Majesty's* pious Instructions, and at the same Time were affected with internal Gratitude, contemplating the Grandeur of an Action, which is as the Crown, and Completion of the many others, which *Her Majesty* has already performed. The assembled Deputies, at the same Time, unanimously agreed to request *Her Imperial Majesty* to appoint a Day, on which they might enjoy the Happiness of appearing again before the Throne of *Her Majesty*, to acknowledge, as from the united Hearts of the whole Empire, their devoutest Gratitude for the Rules contained in the Instructions, which *She*, by *Her* Wisdom, and Tenderness,

E had

had planned for the entire Welfare of *Her* People. This the Deputies did on the 7th of August, and the same was accordingly declared by the Marshal Bibikoff in the General Assembly of the Deputies. They then elected out of their Body four Persons; namely, the most Reverend Demetrius Metropolitan of Novogorod, Deputy from the Holy Synod; Prince Wolchonky, Deputy from the Senate; Count Theodore Orloff, Deputy from the District of Orloff; and Alexander Vilboa, Deputy from the District of Derpt, to wait on their Most Gracious Sovereign for obtaining this Request. On the 8th of August, Demetrius Metropolitan of Novogorod declared to the Marshal, and the Marshal to the General Assembly, that the Persons deputed had been admitted to *Her Majesty*, and that *Her Majesty* had graciously promised to appoint a particular Day for the above-mentioned Purpose. In the mean Time they, who had remained till now only in silent Veneration of the Divine Endowments of their Sovereign, soon determined what was due from the Gratitude of the Subjects to their most wise and most humane Monarch. On the 9th of August, with Zeal and Unanimity, they agreed to offer these deserved Titles to *Her Majesty*. — CATHERINE THE GREAT, MOST WISE, MOTHER OF HER COUNTRY. On the 15th Sitting it was declared to the whole Assembly by the Marshal, that *Her Imperial Majesty* was pleased to appoint the following Sunday, August 12, for the Admission of the Deputies into *Her* Presence. On that Day at 11 o'Clock in the Morning, the Deputies assembled at Court, and waited for the

Arrival of *Her Imperial Majesty* in the great Hall. Our most Gracious Sovereign, in the mean time, attended the Divine Service in the Imperial Chapel, wearing upon *Her* Head a small Crown, and clothed in *Her* Imperial Robes; and when the Service was over, was pleased to go into the great Hall, with the principal Attendants of *Her* Court, preceded by the Marshals with their Wands in their Hands, and followed by *His Imperial Highness, Her Heir*, the Grand Duke Prince Paul Petrowitz. The numerous Deputies were ranged according to their Governments, Provinces, Towns, and Districts, and every one considering the Arrival of His Gracious Monarch as the most blissful Moment of true Happiness, held himself in Readiness to offer that grateful Tribute, which proceeded from Hearts burning with Love towards the beneficent Legislatrix. Whilst the *Empress*, seated on *Her* Throne, appeared to all as their tender Mother, and, by *Her* Magnanimity and majestick Mien, held all present in Awe and Admiration. There was a general Silence among all that were assembled. Each with sincere Gratitude was eager to have addressed his Sovereign with those Titles, which were to be offered *Her*; but was held in Suspence, uncertain whether *Her* Piety would permit *Her* to receive the Titles becoming, and worthy an Heroine; yet firmly hoping, that the Glorious Titles, which are given by Subjects to their beloved and celebrated Sovereigns, would not be refused, when offered in the Name of the Deputies from the whole Body of the People. The Marshal at length spoke in the following Manner.

Most Gracious Sovereign,

“ **T**HE Instructions, which *Your Imperial Majesty*
 “ has been pleased to deliver from the Throne,
 “ for the Establishment of a New Code of Laws, is a
 “ Pledge, and a true Foundation of our Welfare, and
 “ must be productive of the General Good.

“ We the ready and Chosen Sons of our Country,
 “ through the Divine Blessing and Thy O Gracious
 “ Sovereign’s Great Wisdom, and being inspired by Thy
 “ great Actions, and Thy daily Attention to our Wel-
 “ fare, came with great Joy to the Metropolis, and
 “ firmly knew, when we should receive the promised
 “ Instructions, then we should behold the Completion
 “ of Thy Desire, to see the People, intrusted to Thy Scep-
 “ ter, arrive at the utmost Boundary of humane Hap-
 “ piness.

“ Truly, most Gracious Sovereign! Thy Instructions
 “ equal Thy Desires; but how far does *Your Imperial*
 “ *Majesty* exceed our Desires, and even most flattering
 “ Hopes! We expected Prosperity according to the
 “ Measure of our own Imagination; *Your Imperial Ma-*
 “ *jesty* hath conducted the Welfare of Russia according
 “ to Thy own Magnanimous Soul!

“ Having

“ Having favourably considered the Interest of Thy
 “ own Empire, Thou hast extended Thy Views to every
 “ Part of the Earth, gathering from each those Customs
 “ and Regulations which were most useful, as the Labo-
 “ rious Bee extracts its Honey from each Flower, and
 “ bringing them to Thy Inheritance, dost establish and
 “ make them flourish there, subduing even the Rigour
 “ of the Climate. Thou dost not only see our Wants,
 “ but dost search into the hidden Causes of them, which
 “ Thou dost correct. Thou hast not only furnished us
 “ with past Happiness, but dost sow the Seeds of a future
 “ one within our Hearts. It is not with the severe Fear
 “ of Justice, that Thou dost restrain Vice, but Thou
 “ dost root it out by virtuous Education.

“ By such Benefits, promised only in Imagination,
 “ we might appear to flatter ourselves; but here we find
 “ them realized. All is great, all astonishes, and every
 “ Thing surpasses the Understanding of mere Mortals:
 “ But reflecting on what You have already done for us,
 “ we clearly perceive that *Your Imperial Majesty* is truly
 “ establishing for future Ages, fixed Rules for the Pro-
 “ motion of our Welfare.

“ *Your Imperial Majesty* being by the Wisdom of
 “ your Actions become the Admiration of the World,
 “ You will by Your Instructions be the Guide to future
 “ Sovereigns, and the Patroness of Mankind.

“ It

“ It therefore ought to have been the Duty of the
 “ whole Race of Man to be present here with us, and
 “ to have offered to *Your Imperial Majesty* the Title of
 “ Mother of Nations. But as in this universal Good we
 “ are principally interested, and therefore under the
 “ highest Obligations, so Russia first, by the Body of
 “ its elected Deputies, presents before Thy Throne
 “ those Hearts, which swell with Love and Grati-
 “ tude.

“ Behold their Earnestness, as a Sacrifice only due to
 “ Thee! Great Empress! Permit us to adorn ourselves
 “ in the Sight of the World with this Glorious Title,
 “ that CATHERINE THE GREAT, THE MOST
 “ WISE, THE MOTHER OF HER COUNTRY,
 “ rules over us! Condescend most Gracious Sovereign to
 “ receive this Title, an offering from all Thy true Sub-
 “ jects, and, by receiving it, add Resplendence to the
 “ same. The World will follow our Example, and will
 “ call Thee, the Mother of Nations!

“ This is the grateful Voice of joyful Russia! God
 “ grant, that this Voice may extend through the Uni-
 “ verse!”

When the Speech was finished, the Vice-Chancellor,
 Prince de Galitzin, who stood upon the Steps of the
 Throne, on the right Side of *Her Imperial Majesty*,
 answered in *Her* Name to the Deputies as follows.

“ Gentlemen!

“ Gentlemen !

“ **H**ER *Imperial Majesty*, with so much the more Satisfaction receives the Warmth of your Expressions on reading Her principal Instructions, as they indicate that Ardour, which you intend to shew to the World, in carrying the Rules prescribed in those Instructions into Execution, and in bringing each Statute in your System of Laws, to an inviolable Agreement with good Manners and Humanity, from whence the Business, intrusted to you, will receive a Stability not to be overthrown, and will, at the same Time, prove to what Height, Gratitude and a Zeal for Virtue will extend, when it has the glorious Opportunity of securing the Welfare of Mankind. It is by this, that you will facilitate the Labours, and daily Employments of *Her Imperial Majesty*.

Her most Gracious Majesty from *Her* Heart desires, that the King of Kings may strengthen You in these benevolent Purposes. It is He, who will assist and guide you in these arduous Undertakings.

In Conclusion of this I am Ordered by *Her Imperial Majesty* to inform you, of *Her* constant Benevolence towards you.”

Her

Her Imperial Majesty was then pleased in Person to speak to the Deputies in these Words. “ In regard to
 “ the Titles which you desire I may accept from you, I
 “ answer — 1st, As to the Title of Great, I must refer
 “ it to the Impartial Judgment of Time and Posterity ;---
 “ 2^d, As to Most Wise, none can call himself by that
 “ Name, for there is one God only who is most Wise ;---
 “ 3^d, As to the Title of Mother of my Country, I
 “ esteem it my Duty to love those my Subjects intrusted
 “ to Me by God, and to be beloved by them is My
 “ Desire.”

This was a Divine Answer, representing in few Words, *Her* Sweetness, Piety and Parental Affection. All who were present were astonished, and made an humble Obeisance. After this the Marshal and each Deputy had the Honour to approach the Throne, and kneeling kissed the Sacred Hand of His humane Monarch, and beneficent Legislatrix ; after them the Director of the daily Minutes, Count Chouvalove, with the Keepers of them and the rest of the Nobles, who were appointed to this Commission, were admitted to the same Honour.

Thus was concluded this important Transaction, which will remain a respectable Monument to all future Ages. *Her Imperial Majesty*, accompanied by the same Court of State, was afterwards pleased to return into her own Apartments.

It

It excited our Admiration to see that many foreign Ministers, present as Spectators, not only considered this Transaction as a most extraordinary Event, but seemed even to wish that Our Sublime Monarch of all Russia might set an Example to all Christian Regents upon Earth of Love towards their People, and of Regard to their true Interest.

F

ORDER

ORDER AND RULES

For regulating the COMMISSION, for composing

The NEW CODE of LAWS.

I.

THE Deputies are to assemble at Moscow, six Months after the Publication of the Manifesto, in their respective Places, and to present themselves to the Senate.

II.

Every Deputy, after his Arrival, is to produce in the Senate his full Power, from the Place which sent him. These full Powers are to be examined, and entered in the Daily Journal, according to the respective Governments, in the same Manner as the Deputies arrive in the Capital. Some of the Members are to be appointed for this Purpose, and a List is to be made out of those Persons, who do not make their Appearance. But when
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a sufficient Number of the Deputies shall be assembled, the Senate are to make Report of it to *Us*.

III.

Then a Day shall be fixed, on which all the Deputies are to go to the Cathedral Church of *Uspensky*, to take the appointed Oath: The Attorney General is to walk at the Head of them, with the Staff in his Hand; next to him the Deputies of the high Departments of Administration; to these succeed the other Departments of the same; then the Governments, in the following Order. 1. That of *Moscow*; 2. of *Keiff*; 3. of *St. Petersburg*; 4. of *Novogorod*; 5. of *Kasan*; 6. of *Astracan*; 7. of *Siberia*; 8. of *Irkootsk*; 9. of *Smolensko*; 10. of *Estonia*; 11. of *Livonia*; 12. of *Wibourgh*; 13. of *Nisnagorod*; 14. of *Little Russia*; 15. of the Country of *Ukrain*; 16. of *Woronege*; 17. of *Belogorod*; 18. of *Archangelgorod*; 19. of *Orenburgh*; 20. of *New Russia*. The Deputies of the Districts, in every Province, are to be placed according to the Date of the Time of their Appearance in the Senate: First, those of the Gentry; next, those of the Cities; afterwards, those of the Gentlemen Farmers, and other old Servants of the State; and, lastly, those of the common People. The Deputies of *Our* Cofack-Troops are to have their Rank with the Deputies of that Province which they inhabit, after the Deputies of the Cities, as above mentioned. All the Deputies of the Greek Profession are to enter the Church, and those that

are not of the same Communion, are to remain at the Church-door. After divine Service and the Litany, they are to walk in the same Manner to Court, and to have an Audience from *Us*; where they are to desire *Our* farther Orders with respect to the Occasion of their Meeting. Upon this, they will receive from *Us* their Instructions, and the Order and Rules by which they are to regulate their Proceedings; they will be at the same Time informed, that, with the Assistance of the Almighty God, they are to set about composing the New Code of Laws, and to proceed in this great Work in such a Manner as their Duty requires. Those Deputies who shall happen to arrive from different Places, after the Opening of the Commission, will be equally admitted and sworn, agreeably to this Order and Rules, by the Marshal of the Deputies.

IV.

The next Day the Deputies are to assemble in a particular Room, prepared for that Purpose, and are to take their Seats in the same Order they were directed to walk in the first Day. The Attorney General is then to give his Directions, that this Order and Rules be read: He is likewise to acquaint the Members of this Commission, that it is then Time to chuse a Chairman, or Marshal, among themselves; and that, in order to this, they are to nominate some Candidates proper for that Office. He is to give them Half an Hour's Time for their voluntary Agreement in their Nomination. As soon as the limited
Time

Time shall be passed, and that they have mutually agreed, they are to deliver to the Attorney General a List, or Lists of those, whom they think qualified to be their Chairman, and are to proceed to ballot according to the Lists. This being done, the Names of any two Candidates, who shall have a Majority upon the Ballot, or the greatest Equality, are to be entered in the Minute-Book. Then the Attorney General is to present his own Candidate to the Commissioners, that a third Person may be added to the two former. If the Commissioners shall voluntarily consent to the Admission of this Candidate presented by the Attorney General, then he is to be entered in the Minute-Book; but if they should refuse their Assent, then the Attorney General, having nominated three Candidates, is to order the Election by Balloting; and is to enter the Names of those, who shall have a Majority upon the Ballot, in the Minute-Book. But if the Attorney General should happen to nominate one of the Candidates, nominated by the Commissioners, in that Case they shall have Leave to present to *Us* the Names of two Candidates, that *We* may chuse and name one of them to be Chairman, or Marshal of the Deputies. And the Attorney General is to deliver in *Our* Name, the Staff to him whom *We* shall nominate; till then, the Attorney General is to carry the Staff himself in the Assembly. The Marshal thus chosen is to receive all Injunctions and Writings prepared to be read in a full Assembly; and also such Memorials and Resolutions as the Deputies shall present to him; for which Purpose proper Clerks are

appointed under him, for the better Dispatch of such Business, as shall occasionally require it.

V.

After this, the Marshal is to order the Reading of the Instructions, which *We* have given them. Next to these, is to be read this Order and Rules for regulating this Commission established by *Us*, for composing the New Code of Laws.

VI.

After a due Observation of what has been mentioned above, the Marshal of the Deputies is to propose to the Commissioners, to nominate Candidates for a Committee of five Directors, to be chosen in the same Manner as they chose their Marshal. The Marshal has the Liberty of presenting one Candidate, as well as the Attorney General; or, if they agree together, only one; if not, each of them may present one separately, and they shall in their Report to *Us*, propose two or three Candidates for every Seat in the Direction. This Election is to be proceeded with in the same Manner as the Election of the Marshal before mentioned; and they are to wait for *Our* Confirmation; and after they have obtained it, the Marshal is to lay before the full Assembly of the Deputies, the Names of the Members, who are to form the Committee of Direction; and a Copy of the Instructions, as well as of this Order and Rules, are to be given to this Committee.

Committee. The Clerks requisite for transacting the Business of that Committee, are to be appointed by the Attorney General, and the Marshal of the Deputies.

VII.

After this, the Members of this Committee of Direction having thanked them for the Confidence reposed in them by their Choice, are to retire to another Apartment prepared for that Purpose. The Instructions and these Regulations are to be read there again to them; and then they are to enter into Deliberation, and to begin their Function. The Duty of the Committee of Directors is to represent to the General Assembly, by the Marshal, that they are now to chuse Deputies, under the Denomination of particular Committees, for the different Departments. For Instance, a Committee for the Administration of Justice, for what concerns the Domain Lands; for Law-Suits; for Trade; for Agriculture; for Villages; for the Conservation of Forests; for Towns; for Police; and all other different Laws, Regulations, and Establishments. The Committee of Directors, in Case there be Occasion for appointing Members to some Department, can demand them from the full Assembly, as it judges proper. These Elections in the full Assembly are to be performed in the same Manner as the two former, by nominating the Candidates; upon which Occasion the Attorney General and the Marshal of the Deputies are to present as many Candidates, as before mentioned in the fourth Article; but

but no more than five Members are to be appointed to any one Branch or Department; and the full Assembly is already impowered to appoint Members for the particular Committees, without any farther Report. The Marshal of the Deputies and the Attorney General may each have four Men as their Assistants from among the Deputies, in whom they can confide, and who will voluntarily consent to it. Every Deputy elected into a particular Committee, has also the same Liberty of calling one or two out of the Body of the Deputies, upon whose Assistance he can depend in any difficult Business. These Deputies, who act here as Assistants in the particular Committees, are to have no Vote, but are to give their Advice to the Persons who called them to their Aid, out of a friendly Confidence, to assist in the Business in which they are employed, and which they take upon themselves of their own free Will: But these Persons are not to deal with them as with Inferiors; for they are to treat them with that Distinction, which is due to all the Deputies in general. They are to take their Seats behind those who demanded them.

If the Committee of Directors shall judge proper to add still more People to any one Committee of these particular Departments; then it may demand as many Members to each Department as is expressed above. The Committee of Directors may, on all Occasions, urge these Committees on to Business, and whatever Articles they determine, are to be sent up to that Committee; which is to examine, whether they are conformable to the

the great Instructions? Also, whether any one Part of them disagrees with the rest? and whether all Parts are conducive to one and the same End? That is, “ To the
 “ Preservation of the whole Empire, by the Means of
 “ good Manners, the Prosperity of the People, and the
 “ Humanity of the Laws; from whence must arise
 “ Love, Fidelity, and Submission to the Sovereign.”
 The particular Committees are to send short Memorials, or Minutes, every Week to the Committee of Directors, where they are to be read, that every one may be informed of what has been done every Week in each particular Committee; but if it appears from these Memorials, or Minutes, that any one of the Committees has deviated from the general Rules, it is to be informed how, and in what Manner the Instructions ordain otherwise.

If the great Assembly should require the daily Minutes, or Memorials of any Committee, on Account of any particular Business, or Information, then the Committee of Directors is to communicate whatever is necessary.

All Points or Proceedings, which shall be determined in every particular Committee, must be laid before the Committee of Directors, which is to consider and compare them with the fundamental Principles of the great Instructions, and may approve, or alter them, according to the Tenor of those Instructions; and afterwards is to send them up to the great Assembly of the Deputies for
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their Examination ; informing them at the same Time, of the Reasons which occasioned the Alteration.

But where the exact Rule is not laid down in the fundamental Instructions, or Examples only of the like Cases are mentioned, the Committee of Directors is to lay before the great Assembly a State of the Case, with their Sentiments upon it ; that after mature Deliberation they may decide which Precedent or Example can, or will be most proper to be followed, and is most suitable to this Empire. The great Assembly is then to consider again the proper Statutes of the fundamental Instructions, and to give *their* Decision, which the Committee of Directors is to abide by.

In all these Committees, as well as in that of the chief Direction, the Committee of Dispatch, and others of the Members, are to take their Seats at a round Table.

VIII.

Every particular Committee is to have upon the Table a Copy of the grand Instructions. All these particular Committees, or any of them, having gone thro' and finished the Articles intrusted to its Consideration and Care, is to summon (in case they are in that City) the several Colleges, juridical Courts, and Tribunals, from whence these Deputies were sent ; who, after the necessary Confirmation, are to observe and follow the Articles and Statutes drawn up, and settled by that Committee, in
order

order that these may be read in the Presence of such College, juridical Court, or Courts; whose Opinion or Opinions concerning them, is, or are to be asked by such Committee. And in case these several Colleges, Courts, &c. should not be resident in that City, then these Articles and Statutes are to be sent and forwarded to them. If it should so happen that the College, juridical Court, or Tribunal, does not directly approve of them, a Copy of these Articles, &c. is to be delivered to them, with Notice, that no more than a Fortnight's Time is allowed them for their Consideration; and that, at the End of that Time, they are to give in their Opinion, or to communicate their Doubts. Upon the same Occasion, the like Time is prescribed to those Colleges and juridical Courts, who are absent, and in other Cities, exclusive of the Time requisite for sending; for this Purpose the Colleges, and juridical Courts, are to meet on Holidays, or in the Afternoon, and having drawn up their Opinion, are to send it to that Committee which required it. This Committee having examined it, is to compare it once more with the fundamental Instructions, and with its own Institutes; and it may either admit, correct, or reject the Opinion of the Colleges or Tribunals. This being done, the Committee is to send it, with its own Institutes, to the Committee of Directors; annexing to it, at the same Time, the Reasons which induced them to make the Alteration.

IX.

After the Election of the Members for the Committee of Directors, the Marshal is to acquaint the full Assembly of Deputies, that they are to chuse, after the same Manner, Members for the Committee of Dispatch, without which all the rest, and even the full Assembly, cannot in Reality subsist, or act. The Business or Duty of this Committee is to consist in transcribing the Instructions of the other Committees, agreeably to the Rules and Construction of the Language. It is not in the least to alter the Meaning and Intention of any Sentence, or Expression; but if it does perceive Contradictions, then it is to give Notice of it to that Committee, from whence it was sent; and likewise to the Committee of Directors, which is only to be considered as the first relatively under this. Upon the whole, no Composition from any of the Committees, and even from the full Assembly of the Deputies, concerning the final Institutes, is, with respect to its Style and Language, to pass, and still less to be entered in the Reports to *Us*, without first being carefully examined, and signed by this Committee of Dispatch: It being entirely its Business to watch carefully that no Expressions, or Words either of a double Meaning, obscure, indefinite, and such as are unintelligible, be found or left; as it is to answer for the same.

X.

The Marshal is to order such Laws as he thinks proper to be read in the full Assembly, which stand in most
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Need of Correction, agreeably to the Rules laid down in the fundamental Instructions; and such as have been more particularly set forth in the Petitions and Memorials of the Deputies. The Assembly is to make Observations on those Laws, and to send an unanimous Determination thereof to the Committee of Directors, and from thence to the particular Committees, not as an Injunction, but only as Remarks, which are to be considered and weighed in the forming of other Institutes, or Ordinances, of which, from all Parts of the Commission, an Account is necessary to be laid before the full Assembly.

XI.

In the mean time the five particular Deputies are to be chosen in the Manner before mentioned, who are to have Orders to make Extracts from the Instructions sent with the Deputies, according to the Subject-matter they contain, and to read them in the full Assembly, which is to make the proper Remarks, and to send them to the chief Committee of Direction, as has been already mentioned before. The Reading of these Laws, Injunctions, and Projects, is to continue as long as the Marshal thinks proper, alternately with the Reading of the Instructions: For Instance, one Day they are to read the former, and the next Day the latter, continuing to read the whole, or in Part, as the Marshal shall judge most useful or serviceable.

XII.

XII.

In the Committee of Direction, the Attorney General is to manage and give his Directions to the Chancery, or Office of the Clerks, in common with the Marshal of the Deputies; it being impossible for one Man to be in two Places at once, and as the Presence of the Attorney General is necessary in this Committee, so the Presence of the Marshal of the Deputies is equally necessary in the full Assembly. For this Reason, both the one and the other are to have free Admission into either of these Places; and for the more speedy Dispatch of Business, both the one and the other ought to be perfectly acquainted with whatever passes in the several Committees. In all these particular Committees, the Attorney General, and the Marshal of the Deputies, have their Seats with the five chosen Members, which will make up the Number seven; and in case of Sickness of the one, the other is to dispatch his Business, and to be present wherever he shall judge it necessary.

XIII.

The Marshal of the Deputies is to agree previously with the Attorney General upon the Business, or Matter which is to be laid before the full Assembly; and likewise to fix the Days for this Assembly. He is to order that Notice in Writing be posted up, or affixed near the Door, the Day before, to acquaint all Persons that there will be a full Assembly on the Day next following.

When they are thus assembled, the Marshal of the Deputies is to represent to them by Word of Mouth, or in Writing, the Import, or Extent of the Business which is to be taken into Consideration, and ordered to be read. If the Matter is of Importance, strict Silence ought to be kept from the Beginning to the End, at the first Reading; then it is to be read a second Time, to the End that every one may have the Liberty of making his Remarks. But if the Matter is of little or no Consequence, and nobody desires that it should be read a second Time; then it is to be read but once only. Every Person is to make his Remarks in this Manner. He is to get up from his Seat, and to communicate with Decency, and not with a very loud Voice, to the highest Keeper of the daily Minutes, his Objections against such or such a Statute. This Person is to inform the Marshal, and is to set down the Name of the Deputy, that, after the Reading is ended, the Marshal may desire every one of them to propose his Doubts, in Order as they are set down, and not to interrupt one another whilst they are speaking. The Deputy, therefore, who has something to say, is to come out of his Place, and draw near to the Keeper of the daily Minutes, and deliver his Sentiments. If any other Person should interrupt him whilst he is speaking, the Marshal is to remind him, that such a Proceeding is contrary to the mutual Respect due to one another, in an Affair of such Importance. If the Person should offend a second Time, the Marshal is to repeat the same; and, if a third Time, he is to fine the Offender two Rubles *; but if it appears that he perfe-

* Two Crowns.

veres in such irregular Behaviour, he is to be deprived by the whole Assembly of the Liberty of speaking, and shall be obliged to present every Thing he has to say in Writing. He who speaks, is to direct his Speech to the Marshal, or the Attorney General, in case the Marshal is not present; and every one is to speak concisely and clearly. Every Deputy may deliver his Opinion with that Freedom of Speech, which is essentially necessary in Affairs of this Nature. No one is to speak longer than Half an Hour, nor to be allowed to exceed that Time; but is to be ordered by the Marshal, to give his farther Sentiments in Writing. If it is impossible to finish all the Objections in one and the same Day; in that Case, the Point where they left off is to be inserted in the daily Minutes, that the Business may be reassumed from thence on the next Day.

If, after the second Reading, no one should make Objections to, or Remarks upon what has been read, so that the whole Assembly remains silent, then it is to be concluded, that none of the Deputies have any Thing farther to say concerning the Matter, and that all agree to it unanimously. But if either the Marshal or the Attorney General, in a full Assembly, at the Time of Reading or Examination, should find it necessary to offer their Opinions, and should bring the Point to the Question, then every One, in that Case, may do the same; and the Marshal is to demand a Decision from the Assembly in the prescribed Order: And if all agree to it, the Marshal signs the Business; but if the Marshal signs it
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in the full Assembly, then three Deputies sign it with him by Turns, one after another. At the Time of Reading any ancient Laws, Representations, and Complaints, and also at the Time of making Remarks upon them in a full Assembly, if the whole Assembly should not agree about the Remarks offered by some, and objected to by others, then the Marshal is to bring the Point in Dispute to the Question, to which every one is to answer *Yes*, or *No*. After the Question has been put with an audible Voice, and after the Number of the *Yeas* and of the *Noes* are counted, he is to set down the respective Number of both Opinions; which being signed in the Manner above mentioned, he is to send it to the Committee of Directors, who are to return it, with their own Sentiments, to that particular Committee to which the Business belongs. The particular Committee, after examining both those Opinions, and comparing them with the Rules of the fundamental Instructions, is then to make the most useful Institute in the Law, and to transmit the same in that Manner which has been prescribed in this Form of Rules.

With respect to the final Resolution, or Decision of any Article or Institute in the Law; if it should not be settled by an Unanimity of Voices, and that some should say *Yes*, and others oppose it by saying *No*; then a farther Time is to be allowed them for their agreeing unanimously, and the Marshal is to put the Question a second Time; and if they should answer still differently, then the Voices are to be collected, and they must proceed

ceed to Balloting. Upon this the Balls are to be counted, taking Care, at the same Time, that no One put in more than one Ball, and whether the Number of them be compleat. After which they are to reckon the Numbers, to know on which Side the Majority lies. The Marshal and the Attorney General, in Case of an equal Division, have two Votes each, one of which they may give on which Side soever they judge most proper. But if notwithstanding there should even then be found an Equality, in that Case, the Marshal and the Attorney General are to agree with the Assembly that a longer Time be granted them, to put the Matter once more to the Question: After which, in Case of a Division, they must again come to Voting; and if that should still produce an Equality, then the Attorney General, with the Marshal, are to give their second Votes, and make their Protest; and the Attorney General is to report the Business to *Us*.

If the Matter is of such a Nature, that it can by no Means be brought to a Conclusion in one Day, then it is to be deferred to another Day, and is to lie upon the Table, that every One may peruse it, and make himself thoroughly acquainted with it.

But if the Point occasions Debates, and be of such a Nature, that they should think proper after all their Considerations to send it, either to any of the particular Committees, or to the Committee of Directors, in order to examine once more whether they have any Thing to
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add or to change? the Marshal, in that Case, is to send it. After the particular Committee, or the Committee of Directors have examined those Remarks, they are to send their Opinion to the full Assembly, where, for some Time, it is to be considered and argued upon: And the Marshal of the Deputies is to put the Question as he shall judge proper, as is mentioned before. When the Votes shall be cast up, that Side of the Question which shall have the Majority, is to be esteemed the Resolution of the Assembly. The Marshal of the Deputies is to observe on all Occasions, that the Members, who examine the Propositions made by him, must have a sufficient Time to consider the Matter, and to form their Opinion after mature Deliberation. All these Proceedings the Director of the daily Minutes, or Journal, is to write down clearly and concisely, and is to read them before the Assembly.

The daily Minutes and Determinations of the foregoing Days are to be always read in the Assembly, before any other Business is entered upon.

XIV.

The Deputies, who are Members of Committees, are not excluded from the full Assembly; because they have a Right of voting there, as well as all other Deputies, according to their respective Places, and to transact the Business of those Places, from which they are chosen, in the same Manner as all the rest of the Deputies.

XV.

The Commission for the New Code of Laws takes no Cognizance of any Thing else, but that for which it was instituted, *viz.* the Projecting and Composing the said Laws.

If any Member should be guilty of some Misdemeanour with respect to other Affairs, he is to be tried in that Jurisdiction, which takes Cognizance of Affairs of that Nature; and the Commission for composing the New Code of Laws is not to concern itself with this Business.

Every Deputy is exempted for his whole Life, *1st*, From capital Punishment; *2^{dly}*, From Tortures; *3^{dly}*, From corporal Punishment, for whatsoever Crime he should happen to be guilty of.

Since all the Deputies are under *Our* immediate Protection, therefore without *Our* Leave none of the Courts of Judicature are to put the three above-mentioned Statutes concerning their Persons in Execution, without reporting the Case to *Us*, and waiting for *Our* Order upon that Head. From the Day of the Election of every Deputy, his Property is exempt from Confiscation in all Cases, Debts only excepted.

Whosoever shall assault a Deputy during the Composition of the Code of Laws, or rob, beat, or kill him,
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such Offender is to suffer double the Punishment of what is inflicted on the like Occasions.

If one Deputy should injure another, whilst the Assembly is sitting and debating, either by offering ill Language, or any other Indecency, the Deputies are to lay such a Fine upon the Offender as they think proper; or exclude him from the Assembly for a limited Time, or for ever.

That a Member of this Commission may be the more readily known or distinguished as such, they are all to wear particular Marks of Distinction, appointed by *Us*, which they are to enjoy during their whole Lifetime.

And the Deputies of the Nobility, after the final Completion of this grand Undertaking (but not before), are permitted to place these Marks of Distinction in their Coats of Arms, that their Posterity may be informed what an important Service they have been employed in. This Privilege extends only to those who have born an actual Part in this Work, and whose Names will be found subscribed to that, or any other Part of this Project.

Whosoever shall be excluded by the Deputies from the Assembly, shall forfeit all Title to the Privileges and Marks of Distinction belonging to the Deputies.

XVI.

All Amercements, or Fines levied upon Offenders, are to be for the Benefit of the *House of Education of Orphans*.

XVII.

There can be no Assembly unless the Marshal or Attorney General are present; and when the Marshal strikes with his Staff, all are to be silent, and sit down in their Places: But if he perceives that his first Stroke is disregarded, he is to strike a second Time; if this Signal should not be minded, he may then take his Staff, and go out; upon which the Assembly is to break up for that Day; and the next Day he is to move the Assembly to pass such Censure upon the Authors of the Disturbance as they deserve; which Censure is to be read at that Time in full Assembly. The Marshal and Attorney General are to act upon such an Occasion with Caution, and more particularly to take Care, that the Business of the Day may in nowise suffer, and that indecent Mirth, Laughter, and other Disturbances may not take Place in the Assembly; and this they both ought to endeavour to prevent by every Expedient intrusted to their Power.

XVIII.

Every Member in the Committee of Directors is to give his Opinion; and when the Attorney General shall perceive

perceive which Way their Opinions incline, he is then to declare his own Thoughts about the Matter. If they agree with him, the Resolution then is to be registered in the Protocol *, and taken for granted or approved. But if any One should dissent, then the Marshal of the Deputies is to be called in ; and if he should give his Vote on the same Side with the Attorney General, the dissenting Votes are to be entered in the daily Minutes, and are to be communicated, together with the Business itself, to the proper Department, according to the Form established ; and whichever Opinion has a Majority of Votes, the same is to be considered, and received as the Opinion of the Commission. In the particular Committees, the Articles or Institutes of the Law are settled by the Majority of Votes ; mentioning, however, the dissenting ones, of which a List is always to be joined to those Proceedings which have met with Opposition and contrary Opinions.

XIX.

When all the Committees shall be appointed, it will be proper to consider, that several Opinions and Projects may be presented or offered to the Commission for composing the New Code of Laws, and that therefore the Committee of Directors is to represent to the great Assembly, that they should chuse five Deputies, to inspect such Papers, and to examine whether they belong, upon some Account or other, to any particular Department ; or, in Reality, to the Commission for composing

* Book of Precedents.

the New Code of Laws. If these Members judge or find that they belong thereto, they are to send them to the Committee of Directors, to be laid before the great Assembly, in the above-mentioned Order: But if they should belong to any other Court of Judicature, they are to be returned, specifying, upon the Back of them, the Place they belong to.

XX.

The Marshal of the Deputies is to fix the Hour and Place, when and where the full Assembly is to be held. He is to set down in Writing the Names of those who are absent, or go out before the proper Time, and of such Deputies who come late. Whoever comes late, or goes out too soon, is to be reminded of it the first Time, and he who absents himself for a whole Week is to pay a Fine, at the Discretion of the Deputies; but whoever is absent on Account of Sickness or Indisposition, is to inform the Marshal and the Committees of it.

XXI.

If any of the Deputies should be absent a whole Day, and that some Affair of Importance, which has been debated before, should be determined on the Day of his Absence, it is then to be presumed, that he would not have dissented from what had been already determined, and his Dissent afterwards will not be admitted, against what has already passed into a Law. And if any one,
happens

happens to be indisposed longer than nine and twenty Days, he is, with Leave from the Assembly, to present some other Person whom he can confide in, provided he that is so presented be a Man without Reproach, not under any Prosecution of Justice, or the Laws; and no one Deputy can have two Votes. Whoever will substitute another in his own Place, is to give him full Powers, or a Letter of Attorney, signed by himself, or by two Witnesses, if he himself should not be able to sign, certifying that he gives him a full Power to sit, instead of himself, in the Commission. These Letters are to be presented to the Marshal, who is to ask Permission for it of the Assembly; and if that Substitute is qualified, as Deputies ought to be, then the Assembly is to admit of him: Or, if he should not be qualified, it is to order another Person to be nominated. If any One wants to be absent about Business, he is to ask Leave for it from the full Assembly; but if any One should absent himself without such Leave, he is to be deprived of all the Privileges of a Deputy. Whoever shall be sent anywhere upon Business of State, is not to lose his Place among the Deputies. The Marshal is authorized to give Leave of Absence to a Deputy, during nine and twenty Days, taking Care, however, that the several Transactions, or Operations of the Commission, be not retarded by it.

XXII.

None of the Deputies, who are ignorant of Literature, are allowed to deliver in any Letters, Writings, or

Schemes whatsoever, to the Commission for composing the New Code of Laws, without the Name subscribed of the Clerk who wrote them; and it is still less allowable to take or accept the Subscriptions made under the Names of different People; but he who knows how to read and write, is to sign his own Name, besides the Signature of the Clerk.

XXIII.

When the Commission for composing the New Code of Laws shall have accomplished all which has been intrusted with it; then the Report is to be made to *Us*, that all is concluded. Upon which all the Papers are to be sent into the Senate, who are to read them, and either to give their Approbation, or to make Remarks, where it is thought proper; but, in either Case, the Senate is to call together all the Colleges, or chief Departments of State, in order that the Whole may be read over in their Presence. After this, whether it be approved entirely or in Part, or that some Remarks are made at this Meeting, a Report thereof is to be laid before *Us*, by which *We* are requested to name and fix a Day for confirming, on *Our* Side, all what the Commission has transacted. When this Day shall have been named and made known by *Us*, then the Commission, in Conformity to *its Order and Rules*, and the Senate according to *its own*, are to bring to *Us* the composed Project, which is to be signed by all the Deputies and Members present

present of the Senate, and of all the Colleges; and to wait for *Our* farther Orders.

XXIV.

All the Decisions in the Commission for composing the New Code of Laws are to be wrote in this Manner: " By virtue of *Her Imperial Majesty's* Command, and " agreeably to the Instructions in such a Chapter and such " an Article, where it is expressed in these Words," (in the Manner as they write at present in the Senate, " By " virtue of such an Ordinance or Decree;") or only in this simple Manner: " By virtue of *Her Imperial Majesty's* " Command."

In the Course of Correspondences, and Communications that may happen in Writing about Business from this Commission to *Our* Senate, the Marshal is to correspond with the Attorney General by Letters; but with all the Colleges and other Chancery Offices, they are to be carried on by Notes, signed by the Director of the Day-book or Journal.

XXV.

If any of the Members of the Commission for composing the New Code of Laws should die during the carrying on the Business of the Composition, this Commission shall notify it to the Senate, that Orders may be

given from thence to the Place from whence he was sent for electing another in the Room of the Deceased.

XXVI.

All the Governors, who are in the Capital are to assist in the Commission for composing the New Code of Laws; and every one is to send or bring in an Account of the Hardships and Wants that fell under his Observation in the respective Province, under his Inspection. When the Commission sits, they are to place Chairs for them before the Benches of the Deputies of their several Provinces.

XXVII.

All Determinations and daily Minutes are worded and conducted under the Direction of the Attorney General, and the Marshal of the Deputies; and as these are of the last Importance to the whole Commission, and especially to the full Assembly, therefore a particular Number of able and skilful Persons are to be appointed from among the Nobility, for keeping the daily Minutes, with the greater Care and Diligence, and they are to have only one Director. A Chair is to be placed in the Room of the full Assembly for this Director, and he is to take his Seat against the Middle of the Table; the Attorney General on the left Side, and the Marshal of the Deputies on the right. Desks are to be placed, at some Distance from each other, before the Deputies, for the
Keepers

Keepers of the daily Minutes. Every Keeper of the daily Minutes is to set down whatever he sees and hears; and therefore the daily Minutes of this Commission are to consist, *1st*, In setting down, in few Words, whatever shall be read; then, *2^{dly}*, The Debates, what is said, and by whom, observing at the same time to set down, as nearly as possible, the same Words. *3^{dly}*, Whether Silence is kept in the Room. *4^{thly}*, To set down at what Hour every One comes in, and at what Time any One goes out. *5th*, How long the Business lasts, which is read. *6th*, How long they debated. *7th*, Who were the Disputants on both Sides. *8th*, Who gave a wrong or different Sense to the Idea of what was read. *9th*, And finally, how it concluded, and what Article, or Institute, was made, and by what Precept; or whether made without any. The Director of the daily Minutes is to divide this Work as he judges proper, and may increase or diminish the Number of the Persons for taking the daily Minutes: And, when the Session is over, all the Journals, or daily Minutes, are to be brought to him; and by comparing all the different Minutes, taken that Day, with one another, a Minute of the Day is to be composed from them, under the Inspection of the Director. He must not, on his Part, omit setting down whatever he shall find worthy of Observation; and he is to use his best Endeavours, that the daily Minutes may be such as they are wished to be. He is to sign and shew them to the Attorney General, and to the Marshal, to whom this exact Minute of the Day is extremely necessary.

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The Director of the daily Minutes is not only to have free Admittance into all the Particular Committees, on account of his Business; but he is also to appoint the Writers of the daily Minutes in all the Committees, with the Advice of the Attorney General and the Marshal.

It remains to mention one Word only for the Instruction of the Director of the daily Minutes; that is, That these daily Minutes, or Journal, are thus regulated purposely with this View, that future Ages may have a true and circumstantial Account of this important Transaction, and be thereby enabled to judge of the Genius of this Age; and consequently find such Rules, as will serve for their Instruction, and by which they will be greatly convinced of the strong Foundation we have built our present Edifice upon: Which Task would have been infinitely less difficult to *Us*, had *We* not been deprived of the like Minutes, or Informations, of former Ages: And for that Reason, it is the Duty of the Director to labour with his utmost Endeavours, that these Minutes may be drawn up, and set forth, with as much Veracity and Perspicuity as possible.

XXVIII.

In speaking and writing to any of the Deputies in the Commission, no other Title or Character of Distinction is to be given to them, but that of "Mr. Deputy of
" (the Place they represent or are sent from)," adding
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his Name and Sirname. Likewise, when these Deputies sign any Paper, they are to write, "Deputy of such a Place," with their Name and Sirname.

XXIX.

The Proceedings in Writing of the Commission, and its Concerns are to be managed and executed by Noblemen of Ability, Decency, and Prudence. We hope, that many of them are to be found, who will offer their Service voluntarily, in order to be useful to their Country on such an important Occasion: For which Services, after the happy Conclusion of this Commission, such of them as have laboured from the Beginning to the End with Success and Attention, shall receive some of the Privileges granted to the Deputies, of which the Commission in due Time is to make Report to *Us*. But all those who are employed in the Committees in writing and transcribing the Proceedings, are to be under the Guidance and Direction of the Attorney General, and the Marshal of the Deputies.

XXX.

And whereas, in this Undertaking, the utmost Study and Application ought alone to be employed in carrying on, and bringing to Perfection, the Work which is begun; *We* expect, that, besides what *We* have already prescribed, no One will attempt to raise any insignificant Disputes about Precedency of Places: Yet if such Kind
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of idle Disputes should be moved between those, to whom Places were not particularly appointed, then they are to decide it by Lots, marking in the daily Minutes, that such trifling Dispute is decided, by Lot, in favour of such or such a One.

And though, in this Form of Rules, *We* have prescribed all the necessary Directions to the Commission for composing the New Code of Laws; yet if, contrary to *Our* Expectation, some Deficiencies should be found therein, which might raise any Difficulty in this important and useful Business, *We* will not fail, upon such Occasions, if *We* judge it necessary, to give *Our* farther Instructions.

XXXI.

Finally, and to conclude this present Order and Rules, *We* command, and give it in Charge in the strongest Manner to the Commission, to exert its utmost Endeavours for an exact Conformity thereto, since not the least Tittle is mentioned therein, without some Intention tending to bring this great Affair regularly to its final End: And, consequently, *We* cannot imagine, that any One should be found so perverse as not to make this important Intention his sole Object, and not to prefer it to his own capricious Ideas, or to the Pride and Obstinacy of his own Passions. But if any unexpected Impediment to these Rules should happen to flow from these corrupt Sources, *We* here declare, *That whoever harbours them*
deserves

deserves to be covered with Shame, and that his Self-love will lay him under the Displeasure of the whole Commission. On the Contrary, *We* undoubtedly expect, that all the Deputies chosen for this important Commission by *Our* faithful Subjects, according to their Oath, and being every one of them filled with Fidelity and Love towards the Throne, with Zeal for their Country, and Obedience to Prescriptions, which open the Way to Prosperity for all, will prove to our Contemporaries, that, in weighty Concerns, they do not give Place to *Our Ancestors*; and that they, like *them*, will not, and do not trespass against that precious ancient Saying, *O let me not be covered with Shame!*

The Original signed with *Her Imperial Majesty's* own Hand, thus,

CATHERINE.

Moscow, July 30.
1767.



*O Lord my God, hearken unto me, and instruct me;
that I may administer Judgment unto thy People; as
thy sacred Laws direct to judge with Righteousness!*

THE
INSTRUCTIONS

To the COMMISSIONERS for composing

A NEW CODE of LAWS.

1. **T**HE Christian Law teaches us to do mutual Good to one another, as much as possibly we can.

2. Laying this down as a fundamental Rule prescribed by that Religion, which has taken, or ought to take Root in the Hearts of the whole People; we cannot but suppose, that every honest Man in the Community is, or will be, desirous of seeing his native Country at the very Summit of Happiness, Glory, Safety, and Tranquillity.

K 2

3. And

3. And that every Individual Citizen in particular must wish to see himself protected by Laws, which should not distress him in his Circumstances, but, on the Contrary, should defend him from all Attempts of others, that are repugnant to this fundamental Rule.

4. In order therefore to proceed to a speedy Execution of what *We* expect from such a general Wish, *We*, fixing the Foundation upon the above first-mentioned Rule, ought to begin with an Inquiry into the natural Situation of this Empire.

5. For those Laws have the greatest Conformity with Nature, whose particular Regulations are best adapted to the Situation and Circumstances of the People, for whom they are instituted.

This natural Situation is described in the three following Chapters.

CH A P. I.

6. Russia is an European State.

7. This is clearly demonstrated by the following Observations: The Alterations which *Peter the Great* undertook in Russia succeeded with the greater Ease, because the Manners, which prevailed at that Time, and had been introduced amongst us by a Mixture of different Nations, and the Conquest of foreign Territories, were quite unsuitable to the Climate. *Peter the First*, by introducing the Manners and Customs of Europe

rope among the European People in his Dominions, found at that Time such Means as even he himself was not sanguine enough to expect.

C H A P. II.

8. The Possessions of the Russian Empire extend upon the terrestrial Globe to 32 Degrees of Latitude, and to 165 of Longitude.

9. The Sovereign is absolute; for there is no other Authority but that which centers in his single Person, that can act with a Vigour proportionate to the Extent of such a vast Dominion.

10. The Extent of the Dominion requires an absolute Power to be vested in that Person who rules over it. It is expedient so to be, that the quick Dispatch of Affairs, sent from distant Parts, might make ample Amends for the Delay occasioned by the great Distance of the Places.

11. Every other Form of Government whatsoever would not only have been prejudicial to Russia, but would even have proved its entire Ruin.

12. Another Reason is; That it is better to be subject to the Laws under one Master, than to be subservient to many.

13. What is the true End of Monarchy? Not to deprive People of their natural Liberty; but to correct their Actions, in order to attain the *supreme Good*.

14. The Form of Government, therefore, which best attains this End, and at the same Time sets less Bounds than others to natural Liberty, is that which coincides with the Views and Purposes of rational Creatures, and answers the End, upon which we ought to fix a steadfast Eye in the Regulations of civil Polity.

15. The Intention and the End of Monarchy, is the Glory of the Citizens, of the State, and of the Sovereign.

16. But, from this Glory, a Sense of Liberty arises in a People governed by a Monarch; which may produce in these States as much Energy in transacting the most important Affairs, and may contribute as much to the Happiness of the Subjects, as even Liberty itself.

C H A P. III.

17. *Of the Safety of the Institutions of Monarchy.*

18. The intermediate Powers, subordinate to, and depending upon the supreme Power, form the essential Part of monarchical Government.

19. *I* have said, that the intermediate Powers, subordinate and depending, proceed from the supreme Power; as in the very Nature of the Thing the Sovereign is the Source of all imperial and civil Power.

20. The Laws, which form the Foundation of the State, send out certain Courts of Judicature, through which, as through smaller Streams, the Power of the Government is poured out, and diffused.

21. The Laws allow these Courts of Judicature to remonstrate, that such or such an Injunction is unconstitutional, and prejudicial, obscure, and impossible to be carried into Execution; and direct, beforehand, to which Injunction one ought to pay Obedience, and in what Manner one ought to conform to it. These Laws undoubtedly constitute the firm and immoveable Basis of every State.

C H A P. IV.

22. There must be a political Body, to whom the Care and strict Execution of these Laws ought to be confided.

23. This Care, and strict Execution of the Laws, can be no where so properly fixed as in certain Courts of Judicature, which announce to the People the newly-made

made Laws, and revive those, which are forgotten, or obsolete.

24. And it is the Duty of these Courts of Judicature to examine carefully those Laws which they receive from the Sovereign, and to remonstrate, if they find any Thing in them repugnant to the fundamental Constitution of the State, &c. which has been already remarked above in the third Chapter, and twenty-first Article.

25. But if they find nothing in them of that Nature, they enter them in the Code of Laws already established in the State, and publish them to the whole Body of the People.

26. In Russia the Senate is the political Body, to which the Care and due Execution of the Laws is confided.

27. All other Courts of Judicature may, and ought to remonstrate with the same Propriety, to the Senate, and even to the Sovereign himself, as was already mentioned above.

28. Should any One inquire, wherein the Care and due Execution of the Laws consists? I answer, That the Care, and due Execution of the Laws, produces particular Instructions; in consequence of which, the before-mentioned Courts of Judicature, instituted to the End that, by their Care, the Will of the Sovereign might be obeyed

obeyed in a Manner conformably to the fundamental Laws and Constitution of the State, are obliged to act, in the Discharge of their Duty, according to the Rules prescribed.

29. These Instructions will prevent the People from transgressing the Injunctions of the Sovereign with impunity; but, at the same Time, will protect them from the Insults, and ungovernable Passions of others.

30. For, on the one Hand, they justify the Penalties prepared for those who transgress the Laws; and, on the other, they confirm the Justice of that Refusal to enter Laws repugnant to the good Order of the State, amongst those which are already approved of, or to act by those Laws in the Administration of Justice, and the general Business of the whole Body of the People.

C H A P. V.

31. *Of the Situation of the People in general.*

32. It is the greatest Happiness for a Man to be so circumstanced, that, if his Passions should prompt him to be mischievous, he should still think it more for his Interest not to give Way to them.

33. The Laws ought to be so framed, as to secure the Safety of every Citizen as much as possible.

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34. The

34. The Equality of the Citizens consists in this ; that they should all be subject to the same Laws.

35. This Equality requires Institutions so well adapted, as to prevent the Rich from oppressing those who are not so wealthy as themselves, and converting all the Charges and Employments intrusted to them as Magistrates only, to their own private Emolument.

36. General or political Liberty does not consist in that licentious Notion, *That a Man may do whatever he pleases.*

37. In a State or Assemblage of People that live together in a Community, where there are Laws, Liberty can only consist *in doing that which every One ought to do, and not to be constrained to do that which One ought not to do.*

38. A Man ought to form in his own Mind an exact and clear Idea of what Liberty is. *Liberty is the Right of doing whatsoever the Laws allow :* And if any one Citizen could do what the Laws forbid, there would be no more Liberty ; because others would have an equal Power of doing the same.

39. The political Liberty of a Citizen is the Peace of Mind arising from the Consciousness, that every Individual enjoys his peculiar Safety ; and in order that the People might attain this Liberty, the Laws ought to be
 7 so

so framed, that no one Citizen should stand in Fear of another; but that all of them should stand in Fear of the same Laws.

C H A P. VI.

40. *Of Laws in general.*

41. Nothing ought to be forbidden by the Laws, but what may be prejudicial, either to every Individual in particular, or to the whole Community in general.

42. All Actions, which comprehend nothing of this Nature, are in nowise cognizable by the Laws; which are made only with the View of procuring the greatest possible Advantage and Tranquillity to the People, who live under their Protection.

43. To preserve Laws from being violated, they ought to be so good, and so well furnished with all Expedients, tending to procure the greatest possible Good to the People; that every Individual might be fully convinced, that it was his Interest, as well as Duty, to preserve those Laws inviolable.

44. And this is the most exalted Pitch of Perfection which we ought to labour to attain to.

45. Many Things rule over Mankind. Religion, the Climate, Laws, the Maxims received from Government, the Example of past Ages, Manners, and Customs.

46. Hence results a general Sense in the People, similar to these Causes.

47. For Instance, Nature and Climate domineer almost alone over the savage People.

48. Customs govern the Chinese.

49. The Laws tyrannise with savage Ferocity over the Japanese.

50. Manners heretofore took the Lead amongst the Lacedemonians.

51. Maxims of Government, and their ancient Manners bore the Sway at Rome.

52. The different Characters of Nations are blended with Virtues and Vices, with good and bad Qualities.

53. That Composition, or Admixture, might be pronounced happy, from which many and great Blessings spring; though, we frequently cannot even conjecture the Cause, from whence they should issue.

54. To

54. To prove this, I here produce in Evidence different Examples of different Facts. The Spaniards were at all Times remarkably eminent for their Good Faith. History furnishes us with remarkable Instances of their Fidelity in keeping a Pledge intrusted to their Care: They frequently submitted to Death, rather than betray their Trust; and they still retain this Fidelity, for which they were formerly so renowned. All Nations, who trade in Cadiz intrust their Fortunes to the Spaniards; and, hitherto, have had no Reason to repent of their Confidence. But this amazing Quality, blended with their Laziness, forms such a strange Medley, as produces Effects prejudicial to themselves. The other European Nations carry on all that Trade, before their very Eyes, which belongs properly to their Monarchy only.

55. The Character of the Chinese is of a different Complexion, and forms a Contrast which is the very Reverse of that of the Spaniards. The Precariousness of their Lives (arising from the very Nature of their Soil and Climate) produces in them an Activity almost inconceivable; and so immoderate a Fondness for Gain, that no trading Nation can trust them. This known Perfidy of theirs, has preserved to them the sole Trade of Japon. Not one of the European Merchants durst ever venture to engage in the Japon Trade under their Names, though they might have done it with great Ease through their maritime Provinces.

56. By

56. By what *I* have here advanced, *I* meant not, in the least, to abridge that infinite Distance which must ever subsist between Vices and Virtues. God forbid! *My* Intention was only to shew, that all the *political* Vices are not moral Vices; and that all the *moral* Vices are not *political* Ones. This Distinction ought to be known and carefully attended to, that in making the Laws nothing may be introduced in them which is contrary to the general Sense of a Nation.

57. The Legislation ought to adapt its Laws to the general Sense of a Nation. We do nothing so well as what we do freely and uncontrouled, and following the natural Bent of our own Inclinations.

58. In order to introduce better Laws, it is essentially necessary to prepare the Minds of the People for their Reception. But that it may never be pleaded in Excuse, that it is impossible to carry even the most useful Affairs into Execution, because the Minds of the People are not yet prepared for it; you must, in that Case, take the Trouble upon yourselves to prepare them; and, by these Means, you will already have done a great Part of the Work.

59. Laws are the peculiar and distinct Institutions of the Legislator; but Manners and Customs are the Institutions of the whole Body of the People.

60. Consequently, if there should be a Necessity of making great Alterations amongst the People for their
greater

greater Benefit, that must be corrected by Laws, which has been instituted by Laws, and that must be amended by Custom, which has been introduced by Custom; and it is extreme bad Policy to alter that by Law, which ought to be altered by Custom.

61. There are Means of preventing the Growth of Crimes, and these are the Punishments inflicted by the Laws. At the same Time there are Means for introducing an Alteration in Customs, and these are Examples.

62. Besides, the more a People have an Intercourse with one another, the more easy it is for them to introduce a Change in their Customs.

63. In a Word, every Punishment, which is not inflicted through Necessity, is tyrannical. The Law has not its Source merely from Power. Things indifferent in their Nature, do not come under the Cognizance of the Laws.

C H A P. VII.

64. *Of the Laws in particular.*

65. Laws carried to the Extremity of Right, are productive of the Extremity of Evil.

66. All

66. All Laws, where the Legislation aims at the Ex-
tremity of Rigour, may be evaded. It is Modera-
tion which rules a People, and not Excess of Seve-
rity.

67. Civil Liberty flourishes, when the Laws deduce
every Punishment from the peculiar Nature of every
Crime. The Application of Punishment ought not to
proceed from the arbitrary Will, or mere Caprice of the
Legislator, but from the Nature of the Crime; and it
is not the Man, who ought to do Violence to a Man,
but the proper Action of the Man himself.

68. Crimes are divisible into four Classes.

69. The first Class of Crimes is that against Reli-
gion.

70. The second, against Manners.

71. The third, against the Peace.

72. The fourth, against the Security of the Citizens.

73. The Punishments inflicted upon these ought to
flow from the specific Nature of the very Crime.

74. (1st) I include nothing more under the first Class
of Crimes, which affect Religion, but what is a direct
and immediate Attack upon it; such as Sacrilege, dis-
tinctly

tinctly and clearly defined by Law: For the Crimes of those who disturb People in the Exercise of Religion, are of the same Nature with those which violate the public Peace and Security, and consequently ought to be referred to those Classes. In order that the Punishment for the above-mentioned Crime of Sacrilege might flow from the Nature of the Thing, it ought to consist in depriving the Offender of those Benefits which we are intitled to by Religion; for Instance, by Expulsion from the Churches, Exclusion from the Society of the Faithful for a limited Time, or for ever, by shunning their Company.

75. And, in general, civil Punishments are also made Use of in Offences of this Nature.

76. (2d) In the second Class of Crimes are included those, which are contrary to Good Manners.

77. Such as the Corruption of the Purity of Morals in general, either publick or private; that is, every Procedure contrary to the Regulations; which shew, in what Manner we ought to enjoy the external Conveniencies given to Man by Nature, for his Necessities, Interest, and Satisfaction. The Punishments of these Crimes ought to flow also from the Nature of the Thing. A Privation of those Advantages, which the Society has annexed to Purity of Morals; pecuniary Penalties, Shame, or Dishonour; a Necessity of absconding; publick Infamy; Expulsion from the City, and the Community;

in a Word, all the Punishments depending upon judicial Correction, are sufficient to repress the Presumption, and disorderly Behaviour of both Sexes. In Fact, these Offences do not spring so much from Badness of Heart, as from a certain Forgetfulness, or mean Opinion of one's Self. To this Class belong the Crimes only which are prejudicial to Manners, and not those which at the same Time violate the publick Security; such as carrying off by Force, and Rapes; for they are already classed amongst the Crimes of the fourth Species.

78. (3d) The Crimes of the third Class are those which violate the Peace and Tranquillity of the Citizens. The Punishments of them ought also to flow from the very Nature of the Crime, and to bear Relation to this Tranquillity; as for Instance, Imprisonment, Banishment, Corrections, and other Punishments, which reclaim these turbulent People, and bring them back to the established Order. The Crimes against the Peace, I confine to those Things only, which consist in a simple Breach of the civil Polity.

79. For those which violate the Peace, and at the same Time directly attack the publick Security, are referred to the fourth Class of Crimes.

(4) The Penalties due to those last Crimes are peculiarly and emphatically termed Capital Punishments. It is a Kind of Retaliation by which the Society deprives that Citizen of his Security, who has deprived, or would
 I deprive

deprive another of it. This Punishment is taken from the Nature of the Thing, deduced from Reason, and the Sources of Good and Evil. A Citizen deserves Death, when he has violated the public Security so far as to have taken away, or attempted to take away, the Life of another. Capital Punishment is the Remedy for a distempered Society. If publick Security is violated with respect to Property, Reasons may be produced to prove, that the Offender ought not, in such a Case, to suffer capital Punishment; but that it seems better, and more conformable to Nature, that the Crimes against the publick Security, with respect to Property, should be punished by Privation of Property; and this ought inevitably to have been done, if the Wealth of every One had been common, or equal. But as those who have no Property are always most ready to invade the Property of others, to remedy this Defect, corporal Punishment was obliged to be substituted instead of pecuniary. What I have here mentioned is drawn from the Nature of Things, and conduces to the Protection of the Liberty of the Citizens.

C H A P. VIII.

80. *Of Punishments.*

81. The Love of our Country, Shame, and the Dread of publick Censure, are Motives which restrain, and may

deter Mankind from the Commission of a Number of Crimes.

82. The greatest Punishment for a bad Action, under a mild Administration, will be for the Party to be convinced of it. The civil Laws will there correct Vice with the more Ease, and will not be under a Necessity of employing more rigorous Means.

83. In these Governments, the Legislature will apply itself more to prevent Crimes, than to punish them, and should take more Care to instil Good Manners into the Minds of the Citizens, by proper Regulations, than to dispirit them by the Terror of corporal and capital Punishments.

84. In a Word, whatever is termed Punishment in the Law, is, in Fact, nothing but Pain and Suffering.

85. Experience teaches us, that, in those Countries where Punishments are mild, they operate with the same Efficacy upon the Minds of the Citizens, as the most severe in other Places.

86. If a sensible Injury should accrue to a State from some popular Commotion, a violent Administration will be at once for a sudden Remedy, and instead of recurring to the ancient Laws, will inflict some terrible Punishment, in order to crush the growing Evil on the Spot. The Imagination of the People is affected at the Time
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of this greater Punishment, just as it would have been affected by the least ; and when the Dread of this Punishment gradually wears off, it will be compelled to introduce a severer Punishment upon all Occasions.

87. The People ought not to be driven on by violent Methods, but we ought to make Use of the Means which Nature has given us, with the utmost Care and Caution, in order to conduct them to the End we propose.

88. Examine with Attention the Cause of all Licentiousness ; and you will find, that it proceeds from the Neglect of punishing Crimes, not from the Mildness of Punishments. Let us follow Nature, which has given Shame to Man, for his Scourge, and let the greatest Part of the Punishment consist in the Infamy which accompanies the Punishment.

89. And if a Country could be found, where Infamy should not be the Consequence of Punishment ; the Reason of this is to be imputed to some tyrannical Government, which inflicted the same Punishments upon the Innocent and the Guilty, without Distinction.

90. And if another Country should be known, where the People are restrained by nothing but the severest Punishments ; you must again be assured, that this proceeds from the Violence of the Government, which has ordained those Punishments for the slightest Offences.

91. It happens frequently, that a Legislator, who wants to extirpate an Evil, thinks of nothing but this Method of Cure: His Eyes are fixed on this Object only, and do not foresee the bad Consequences which attend it. When the Evil is once cured, we remark nothing but the Severity of the Legislator; but it leaves a Dis-temper in the State, arising from this very Severity. The Minds of the People are corrupted, for they are inured to Despotism.

92. The Japanese Histories inform us, on the Subject of Education, that we ought to treat Children with Indulgence; because Correction hardens, and makes them stubborn; and, at the same Time, that Slaves ought not to be used with too much Severity, because they will immediately rebel in their own Defence. By remarking the Spirit, which ought to animate and govern their *domestick* Polity, could not they from thence have formed their Idea, of what ought to have been infused into the *civil* Polity of their State?

93. One may find, even here, the Means of reclaiming unsettled and rambling Minds back to the right Path, by Maxims of the Law of God, of Philosophy, and of Morality, selected and adapted to their Turn of Mind, and balanced by a due Admixture of Rewards and Punishments; by a just Application of suitable Rules of Honour; by Punishments consisting of Shame, and by perpetuating the Enjoyments of Happiness and sweet Tranquillity. But if there should be any Danger, that
— Minds,

Minds, which are so inured to Punishment, as not to be restrained but by the utmost Degree of Severity, and could never be reclaimed by moderate Punishments; in this Case, we ought to act [*observe this with Attention, as a Rule confirmed by the Experience of Facts, on all Occasions where Minds are hardened by the excessive Severity of Punishment*] in a wise, secret, and imperceptible Manner; and, on particular Occasions, to shew Lenity to some, who deserve it, by inflicting moderate Chastisement for their Crimes; and to persevere in this Method, till we gradually attain this end, of mitigating Punishment on all Occasions.

94. It is unjust to punish a Thief, who robs on the High-way, in the same Manner as another, who not only robs, but commits Murder. Every One sees clearly that some Difference ought to be made in their Punishment, for the Sake of the general Safety.

95. There are Countries, where Thieves are unwilling to commit Murder; because they, who only rob, may hope to be transported to their remote Settlements; but they who commit Murder, can, on no pretence whatever, expect that Favour.

96. Good Laws keep strictly a just Medium: They do not always inflict pecuniary, nor always subject Malefactors to corporal Punishment.

All

All Punishments, by which the human Body might be maimed, ought to be abolished.

C H A P. IX.

97. *Of the Administration of Justice in general.*

98. The Power of a Judge consists only in a due Execution of the Laws, to the End that no Doubt might arise with respect to the Liberty and Security of the Citizens.

99. For this Reason *Peter the Great* most wisely established the Senate, the Colleges, and the inferior Courts of Judicature; which are to administer Justice in the Name of their Sovereign, and according to the Laws; for this Reason, the Privilege of carrying Appeals to the Sovereign himself was made so difficult: A Law which ought never to be violated.

100. Consequently, there must be Courts of Judicature.

101. These Courts of Judicature make Decisions, and pass Sentences, which ought to be carefully preserved, and publickly known for this Reason, that, in the Courts of Judicature, Justice should be dispensed in the same Manner *this Day*, as it had been *the Day before*; and that the Property and Life of every Citizen should be

be as surely established, and as firmly secured by them, as the Constitution of the State itself.

102. In a sovereign State, very nice and exact Proofs are required; because, on the Decision of these Courts, not only the Life and Property, but even the Honour of Mankind depends.

103. The Judge ought to enter into the most subtle and minute Particulars of the Cause; so much the more, as the greatest Trust is reposed in him, and as the Affair upon which he decides is of the greatest Consequence. Consequently, we ought not to be surprized to find, in the Laws of these States, so many Rules, Boundaries, and Extensions; which amplify particular Cases, and seem to compose an Art from Reason itself.

104. The Distinction of Employments, Posterity, the Condition of different Ranks of People, established in sovereign States, frequently introduces with it many Divisions in relation to the Nature of Property. But the Laws which relate to the Regulation of this State may still more enlarge the Number of these Divisions.

105. According to this Principle, Wealth is Property, either acquired, or given in Dowry, or inherited from Parents, or Moveables, &c. &c.

106. Every Species of Property is subject to particular Regulations. These are to be strictly adhered to, in
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order to make a right Disposition of every particular Article; which, by this Method, is still more minutely divided.

107. The more the Number of Processes increase in Courts of Judicature under a Sovereign State, the more the Jurisdiction is overburthened with Decisions; which are some Times repugnant to each other; either because, in the alternate Succession of Judges, some differ in Opinion from others, or because the same Causes are sometimes well, some-times ill defended; or finally, because of the innumerable Abuses, which insinuate themselves secretly, and by Degrees, into whatever passes through the Hands of Man.

108. This is a necessary Evil, which the Legislator remedies from time to time, as repugnant to the Nature of a moderate Government.

109. For if any one is obliged to apply to the Courts of Judicature, such Application ought to proceed from the Nature of the Constitution of the State, and not from the Contradiction and Ambiguity of the Laws.

110. In Governments where a Distinction of Persons is introduced, there must likewise be a personal Pre-eminence established by the Laws. The particular Pre-eminence, established by the Laws, which is least burthensome of all to the Community, is this: To be judged before one of the Courts of Judicature, preferably

bly to any other. Hence arise new Difficulties; that is in order to know which Court of Judicature a Man ought to apply to.

III. One frequently hears it said in Europe, that Justice ought to be administered in all Places, in the same Manner as in the Turkish Empire. According to this Sentiment, no Nation under the Sun, but that which is plunged in the grossest Ignorance, could be capable of having a clear Idea of what is essentially necessary to be known by all the Universe.

II 2. If you examine with Attention all the Formalities of the Law, you will find, without Doubt, many Difficulties present themselves, which a Citizen must go through when he applies to the Law, in order to obtain his Property, or to procure Redress for some Injury he has received. But if you compare these Inconveniencies with the Liberty and Security of the Citizens, you will find them extremely trivial; and you will be convinced, at the same Time, that all the Difficulties, Cavils, and Delays in the Courts of Judicature, are nothing more than the Price, which every Citizen pays for his Liberty.

II 3. In the Turkish Dominions, where very little Regard is paid to the Property, Life, and Honour of the Subjects, they quickly determine all Disputes in *this*, or *that* Manner. Amongst them the Means of disentangling, and clearing up any knotty Affair, are not in the

least attended to, provided the Dispute be but ended. The Basha, enlightened at once, orders the Bastinado on the Soles of the Feet to the Litigants, just as it strikes his Fancy, and then dismisses them.

114. But in States under a moderate Government, where equal Attention is paid to the Life, the Property, and the Honour of the meanest Citizen, no one can lose his Honour or Property, without a long and strict Examination into the Truth. No one can be deprived of Life, unless his Country itself demands it; but even his Country will not take away the Life of any one, without giving him Leave, first, to employ all the Means in his Power to defend it.

115. Where the Honour, Property, Life and Liberty of the Citizens are carefully guarded, these judicial Formalities increase in Proportion.

116. We ought to hear what the Defendant has to say; not only to gain a thorough Information of what he is accused of, but also to enable him to defend himself. He ought therefore either to answer for himself, or chuse any other Person to speak in his Behalf.

117. Some Persons think, that the youngest Counsellor, in every Court of Judicature, according to his Office, might plead for the Defendant; as for Instance, the Ensign in a Company. Another Advantage would arise from hence, which is the greater Stock of Experience,

rience, which the Judges would acquire by that Method, in the Discharge of their Duties.

118. Defence here means nothing more, than a full Remonstrance to the Court of Judicature, of whatever can be urged in favour of the Defendant, in order for his Acquittal.

119. The Laws, which condemn a Man upon the Deposition of one Evidence only, are destructive to Liberty. There was a Law made in the Time of the Heirs of Constantine I. by which the single Evidence of one Man in a high Station is taken for sufficient Proof of the Guilt of the Party accused; and, for this Reason, the Evidence of others, in relation to the very same Affair, are not allowed to be heard. By the Will of this Legislator, the Decision was dispatched in a very quick and very strange Manner. They decided the Affair according to the Figure the Evidence made, and they judged of his Figure according to the Dignity of his Rank.

120. Two Witnesses are absolutely necessary, in order to form a right Judgment: For an Accuser, who affirms, and the Party accused, who denies the Fact, make the Evidence on both Sides equal; for that Reason, a Third is required in order to convict the Defendant; unless other clear collateral Proofs should fix the Credibility of the Evidence in favour of one of them.

121. The

121. The Evidence of two Witnesses is esteemed sufficient for Conviction, in every criminal Case whatsoever. The Law believes them, as if they spoke from the Mouth of Truth itself. The following Chapter will evince this more clearly.

122. In the same Manner they decide in almost every State, that every Child conceived in the Time of Wedlock is legitimate: The Law places its whole Confidence in the Mother. This is mentioned here on account of the Obscurity of the Laws in those Cases.

123. The Usage of Torture is contrary to all the Dictates of Nature and Reason; even Mankind itself cries out against it, and demands loudly the total Abolition of it. We see, at this very Time, a People greatly renowned for the Excellence of their civil Polity, who reject it without any sensible Inconveniencies. It is, therefore, by no Means necessary by its Nature. *We* will explain this more at large here below.

124. There are Laws, which do not allow the Application of Torture, except only in those Cases, where the Prisoner at the Bar refuses to plead, and will neither acknowledge himself innocent nor guilty.

125. To make an Oath too cheap by frequent Practice, is to weaken the Obligation of it, and to destroy its Efficacy. The Kissing of the Cross cannot be used upon any Occasion, but when he, that takes an Oath,
has

has no private Interest of his own to serve; as for Instance, the Judge and the Witnesses.

126. Those who are to be tried for capital Offences, should chuse their own Judges, with the Consent of the Laws; or, at least, should have a Right of rejecting such a Number of them, that those who remain in Court may seem as chosen by the Malefactors themselves.

127. It is likewise just, that some of the Judges should be of the same Rank of Citizenship as the Defendant; that is, his Equals; that he might not think himself fallen into the Hands of such People, as would violently over-rule the Affair to his Prejudice: Of this there are already Instances in the Martial Laws.

128. When the Defendant is condemned, it is not the Judges who inflict the Punishment upon him, but the Law.

129. The Sentence ought to be as clear and distinct as possible; even so far as to preserve the very identical Words of the Law. But if they should include the private Opinion of the Judge, the People will live in Society, without knowing exactly the reciprocal Obligations they lie under to one another in that State.

130. There are many different Ways of passing Sentence. In some Countries they shut up the Judges, and allow

allow them neither meat nor drink, till they are unanimous in their Verdict.

131. There are sovereign States, where the Judges act after the Manner of Jurymen. They consult together, impart their Minds to one another, moderate their Opinions, so as to conform with the Opinion of others, and strive to agree in their Suffrages.

132. The Judges amongst the Romans allowed no more than the precise Demand, without increasing, diminishing, or moderating it in the least.

133. But their Prætors invented other Forms of Plea for the Plaintiffs Right, which they termed the Right of Good Faith, in which the Manner of determining and pronouncing Sentence was more in the Judges Disposal, who had a Power of deciding as their Conscience directed.

134. For in a false Action for Debt the Plaintiff loses the Cause; and a Penalty ought to be laid upon the Defendant, if he does not acknowledge what he owes, that by these means good Faith might be preserved on both Sides.

135. If Judges, who ought to act according to the Laws, should have a Right to confine a Citizen, who can give Bail, in that Case there would be an End of Liberty, unless he should be put under Confinement, that he might immediately answer a Charge laid against him for such a Crime,

a Crime, as deserves capital Punishment by the Laws. In this Case he is really free ; for he is subject to nothing else, but the Power of the Law.

136. But if the legislative Power thinks itself endangered by some secret Conspiracy against the State, or Sovereign, or by some traiterous Correspondence with neighbouring Enemies ; in such a Case, the legislative Power allows the executive to take all suspected Citizens into Custody, for a limited Time, who are deprived of their Liberty for that Time ; for this Reason only, that it might be preserved inviolate for ever.

137. But it is best to define exactly in the Laws those important Cases, in which a Citizen cannot be admitted to Bail : For the Law, in all Countries, deprives such People of their Liberty, who cannot find sufficient Bail, so long as the common Security, or a Part of it, shall require. In Chapter X. this will be treated of more at large.

138. Though all Crimes affect the Community, yet those which affect the Citizens ought to be distinguished from those which still more immediately affect the State, in consideration of the Union subsisting between the State and the Citizen. The first are termed *proper* or *particular* Crimes, because committed against Individuals ; the second are Crimes which affect the Community, or whole Body of the People in general.

139. In some Countries, a Prince placed upon the Throne to see the Law duly executed in every Part of his Dominions, according to the Constitution of the Country, establishes an Officer in every Government, to prosecute Crimes in the Name of the Sovereign ; from whence the Name of the Informer is utterly unknown in those Countries. But if ever the People suspect this Avenger of Mankind of abusing the Trust reposed in him, they will then oblige him to declare the Name of his Informer. This Office, established in the Community, watches over the Welfare of the Citizens ; the Concealment of the Informer's Name carries on the Business, and the People are quiet. *Peter the Great* has prescribed to the Attorneys to examine, and to determine all Affairs where there is no Witness ; and if to this could be still added a Person of Rank, vested with the above-mentioned Office, Informers would be less known amongst us.

140. That Law of Rome is highly blame-worthy, which allowed the Judges to take small Presents, provided they did not annually exceed the Sum of one Hundred Crowns. They to whom we give nothing, demand nothing ; but they to whom we give but a Trifle, desire that Instant a little more, and afterwards are hardly to be satisfied. Besides this, it is easier to prove the Truth to him, who, though obliged to take nothing, yet takes a Trifle, than to him who will take more, when he ought to have taken less, and who will always find specious Reasons, and proper Representations sufficient to excuse himself.

141. Among the Roman Laws there is one, which forbids the Confiscation of Property to the Sovereign, except in Cases of *Treason*; and even then, only in the *highest Degree* of that Crime. It would be often extremely prudent to conform to the Spirit of this Law, and to *specify* the *particular* Crimes to which the Confiscation of Property to the Sovereign should *be limited*, and at the same Time no other Part of Property ought to be confiscated to the Sovereign, besides the proper Acquests of the Criminal.

C H A P. X.

142. *Of the Forms of criminal Courts.*

143. We do not intend here to enter into extensive Inquiries, nor into a subtile Division of every Crime into its respective distinct Species, nor to ascertain which Punishment is best adapted to each. We have already divided them into four Classes; and, by a contrary Procedure, the great Number and Variety of Objects, and the different Circumstances of Time and Place, would oblige us to launch out into an Infinity of trifling Particulars. It will be sufficient here to lay down, *1st*, The principal *general Rules*, and, *2^{dly}*, The *Crimes* which are most prejudicial.

144. Q. 1. *From whence have Punishments their Origin, and upon what Right is the Power of Punishing founded?*

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145. We may term Laws *the Means* by which People are united together, and protected in Society, and without which, Society would be dissolved and ruined.

146. It was not sufficient to establish these *Means*, which became a *Deposite* to Society: It was requisite, at the same Time, to support them. Punishments were instituted for the Violators of them.

147. Every Punishment is unjust, when it is not essentially necessary to preserve this *Deposite* entire.

148. The first Consequence of these original Rules is this: That the Right of determining the respective Punishment for Crimes appertains solely to the Laws, and that the Legislator, as Representative of the whole Society, and having the entire Power deposited in his own Hands, has the sole Right of making penal Laws. Hence it again follows, that the Judges and Administrations, as being themselves no more than a Part of the Society, cannot with Justice, nor under Pretence of the general Good, inflict a Punishment upon any other Member of the Society, which has not been expressly appointed by the Laws.

149. Another Consequence is, That a Sovereign, who is the Representative, and possesses the whole Power for the Defence of the Community, can, by his own Authority, publish general penal Laws, to which every Member in the Society is *amenable*; but he ought to abstain from

from sitting as *Judge himself*, as was mentioned above in the 99th Article. Therefore he ought to appoint *other Persons*, who should judge according to the Laws.

150. The third Consequence is, If the Severity of Punishment should not have been already over-ruled by the beneficent Virtue of Compassion for Mankind, this Consideration alone, *that it is useless*, would suffice to abolish it; which serves for Proof, that it is unjust.

151. The fourth Consequence is, That Judges, in criminal Cases, can have no Right to interpret penal Laws; for this Reason only, that they are not Legislators. Who then should be the lawful Interpreter of them? I answer, the Sovereign, and not the Judge; for the Duty of a Judge consists only in examining closely, whether a Man has, or has not committed such a Fact, contrary to the Law.

152. A Judge, in every criminal Case whatsoever, ought only to form a Judgment in his own Mind by a *Syllogism*, in which the first Proposition lays down the general Law; the second declares, whether the Action in question is conformable to, or repugnant to that Law; and the Conclusion consists either in the Acquittal, or Punishment of the Party accused. If the Judge himself is constrained, by the Obscurity of the Laws, to make more than *one Syllogism* in criminal Cases, then all will be obscure and uncertain.

153. No-

153. Nothing is so dangerous, as this general Axiom: *The Spirit of the Law ought to be considered, and not the Letter.* This can mean nothing else, but to break down the Fence, which opposes the Torrent of popular Opinions. This is a self-evident Truth, which is not to be controverted, how strange soever it may appear to vulgar Minds; who are more terrified by the least Irregularity which happens before their Eyes, than by Consequences more remote, but infinitely more fatal, which flow from one false Principle adopted by a People. Every Man has his own particular Mode of viewing Objects presented to his Mind, different from every other. We should see the Fate of a Citizen changed, by the Removal of his Cause from one Court of Judicature to another; and his Life and Liberty depending upon Chance, either from some false Ideas, or the Perverseness of his Judge: We should see the *same* Crimes punished *differently*, at *different* Times, by the *very same* Court of Judicature; if they will not listen to the invariable Voice of the fixed, established Laws, but follow the deceitful Inconstancy of their own arbitrary Interpretations.

154. The Disorders which may possibly arise from a *strict* and *close* Adherence to the *Letter* of *penal* Laws, are by no Means comparable to those, which are produced by the *arbitrary Interpretation* of them. The Errors proceeding from the *first* are only *temporary*, and will oblige the Legislator to make, some-times, easy and necessary Corrections in such *Words* of the Law as are capable

capable of a *double Meaning*. However, it will prove a Bridle to curb that *licentious Method of interpreting*, and *deciding at their own Discretion*, which may prove fatal to every Citizen.

155. If the Laws are not *exactly* and *clearly* defined, and understood *Word by Word*; if it be not the sole Office of a Judge, to *distinguish*, and lay down *clearly*, what Action is conformable to the Laws, and what is repugnant to them: If the Rule of *just* and *unjust*, which ought to govern alike the ignorant Clown, and the enlightened Scholar, be not a *simple Question* of Matter of Fact for the Judges; then the Situation of the Citizen will be exposed to strange Accidents.

156. By making the *penal* Laws always *clearly* intelligible, *Word by Word*, every one may calculate truly, and know exactly the Inconveniencies of a bad Action; a Knowledge which is *absolutely* necessary for restraining People from committing it; and the People may enjoy Security, with respect both to their Persons and Property; which ought ever to remain so, because this is the *main Scope* and *Object* of the Laws, and without which the Community would be dissolved.

157. If the Power of *interpreting* Laws be an Evil, there is an Evil also which attends the *Obscurity* of them, and lays us under the Necessity of having Recourse to their Interpretation. This Irregularity is still greater, when

when the Laws are written in a Language *unknown* to the People, or expressed in *uncommon* Phrases.

158. The Laws ought to be written in the *common vernacular Tongue*; and the Code, which contains all the Laws, ought to be esteemed as a Book of the utmost Use, which should be purchased at as *small* a Price as the Catechism. If the Case were otherwise, and the Citizen should be ignorant of the Consequences of his own Actions, and what concerns his Person and Liberty, he will then depend upon some few of the People, who have taken upon themselves the Care of preserving and explaining them. Crimes will be less frequent, in *proportion* as the Code of Laws is more *universally* read, and *comprehended* by the People. And, for this Reason, it must be ordained, That, in all the Schools, Children should be taught to read *alternately* out of the Church Books, and out of *those* which contain the Laws.

159. Q. 2d, *Which are the best Means to be used, when a Citizen is to be taken into Custody, and also to convict him of a Crime?*

160. That Person will violate the *personal Security* of every Citizen; who shall allow a Court of Judicature, (which is obliged to act according to the Laws, and has the Power of imprisoning a Citizen) to deprive *one Man* of his Liberty, under some frivolous Pretence, and to leave *another* at large, notwithstanding the most clear Evidence of his Guilt.

161. To

161. To confine a Citizen is a Punishment, which differs from all other Punishments in this, that it inevitably *precedes* the judicial Declaration of the Crime.

162. But this Punishment cannot be inflicted, except where there is a great Probability that a Citizen has committed a Crime.

163. Consequently, the Law ought to *specify* exactly the *distinguishing Marks* of *that* Crime, which should make a Man liable to be put under Confinement, and should subject the Party accused to this Punishment, and to the *verbal Examinations*, which are likewise a Species of Punishment. As for instance :

164. The Voice of the People, which accuses him ; his Flight ; his own preceding Confession, whilst at Liberty ; the Evidence of his Accomplice in the same Crime ; the Threats, the known Enmity between the accused Party and the offended, the very Fact itself, and *other similar Marks*, will afford sufficient Reason why a Citizen ought to be taken into Custody.

165. But these Proofs ought to be *specified* by the Law, and *not* by the Judges, whose Sentences are always averse to civil Liberty, if they are not deduced from the general Rule, which is in the Code of Laws, upon whatever Occasion it may so happen.

166. When the Prison shall be less dreadful ; that is, when Humanity and Compassion shall reach even the
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Prisons themselves, and shall penetrate the *callous Hearts* of the Officers of Judicature; then the Laws may be satisfied with *these specific Marks*, and order any Person into Custody.

167. There is a Difference between taking into Custody, and shutting up in Prison.

168. To take a Man into Custody is nothing more, than to guard the Person of a Citizen accused of some dangerous Crime, until it can be discovered, whether he is guilty or not; consequently, Confinement ought to be as short, and as gentle as possible; a *limited Time* ought to be fixed for it, *proportioned* to the *Time requisite* for preparing the Process to be laid before the Judges. The Strictness of the Confinement ought to be no greater, than what is necessary to prevent the Escape of the Offender, or for the Discovery of Proofs of the Crime alledged against him. The Affair therefore ought to be *finally* determined as soon as possible.

169. The Man, who has been under Confinement, and afterwards cleared himself of what was laid to his Charge, ought not to be *subject to Infamy*. Amongst the Romans, we see that Citizens, who had been accused in Court even of capital Crimes, yet were honoured, and raised to the principal Posts in the State, after they had proved their Innocence.

170. The

170. The Confinement of a Prison is the Consequence of the final Determination of the Judges, and serves instead of Punishment.

171. We ought not to confine in the same Place, 1st, Him, who is accused of a Crime upon *Suspicion* only; 2^{dly}, He, who is *convicted*; 3^{dly}, He, who is *condemned*. He who is charged on *Suspicion*, is kept only in Custody, and the other two are confined in Prison. But this Imprisonment will be only a Part of the Punishment to *One* of them; but the *Other* must suffer the Punishment *itself* he is condemned to.

172. To be taken into Custody is not to be considered as a Punishment, but as an Expedient to secure the Person of a Citizen accused: Which Expedient assures him, at the same Time, of Liberty, if he be not really guilty.

173. To be put under Arrest by the Articles of War, is no Dishonour to any Member of the Military Corps. It ought to be the same among the Citizens, with respect to *Civil* Confinement.

174. The detaining a Person under Confinement changes into *Imprisonment*; if the Party accused should be found *guilty*; consequently there should be *different* Places of *Confinement* for all three.

175. Here is a general Proposition for Calculation, in order to *evince with Certainty* the Truth of the Crime committed; as for Instance, when the Proofs of any Fact depend on each other; that is, when the Proofs of the Crime can neither be *demonstrated*, nor the Truth of them *affirmed*, otherwise than of *one* by *another*. When the Truth of *many* Proofs *depends* upon the Truth of *one* Proof only, then the *Number* of Proofs neither *increases* nor *diminishes* the Probability of the Fact; because, *at that Time*, the *Force* of *all* the Proofs *centers* only in the *Force* of *that Proof*, upon which all the rest *depend*; and if this *one Proof* should not be *valid*, then all the *others* depending upon that *one* will be instantly *invalidated* too. But when the Proofs are *independant* on each other, and every particular Proof *confirms* the *same* Truth, then the *Probability* of the Fact *increases* according to the *Number* of the Proofs; because, the Falseness of *one* Proof does not infer the *Falsity* of another. Perhaps it will appear strange to some Persons, that *I* make use of the Word *Probability*, when *I* speak of Crimes; which, in order to *deserve Punishment*, ought to be *undoubtedly certain*; yet it ought here to be considered, that moral Certainty is only *Probability*; which is termed *Certainty*; because, every Man of Sense is obliged to acknowledge it *as such*.

176. The Proofs of Crimes may be divided into two Species, *perfect* and *imperfect*. *I* call those *perfect*, which exclude all *Possibility* of shewing the Innocence of the Party accused; and those *imperfect*, which do
not

not exclude such Possibility. One single *perfect* Proof is sufficient to confirm the Justice of the Condemnation which was passed upon the Malefactor.

177. With respect to *imperfect* Proofs, their Number should be so great, as to form a *perfect* Proof; that is, the *Sum Total* of all such Proofs ought to exclude all *Possibility* of proving the Innocence of the Party accused; though each Proof, *separately* taken, does not exclude it. We must add to this, that *imperfect* Proofs, which the Party accused is not able to *invalidate* in his Defence, though his Innocence ought to give him *the Means* of doing it; in such a Case, become *perfect*.

178. Where the Laws are precise and clear, there the *Office* of a Judge *consists* only in *ascertaining the Fact*.

179. To investigate the Proofs of a Crime, a Quickness of Apprehension is required, and in order to sift out from these Disquisitions the *final Result*, there ought to be a *Precision* and *Clearness* of Ideas; but, in order to judge by this *final Result* of the whole, nothing more is required but plain good Sense, which will be a more certain Guide, than all the Knowledge of a Judge, who is accustomed to find every one guilty.

180. That Law, therefore, is highly beneficial to the Community where it is established, which ordains that
every

every Man shall be judged by his Peers or Equals. For when the Fate of a Citizen is in Question, all Prejudices arising from the Difference of Rank or Fortune should be stifled; because they ought to have no Influence between the Judges and the Parties accused.

181. But if the Crime extends to the Prejudice of a third Person, *one Moiety* of the Judges ought to be taken from the *Peers* to the Party accused, and the *other Moiety* from the *Peers* to the Party offended.

182. It is also just, that the Party accused should have the Liberty of excluding a *certain Number* of his Judges, upon any *Suspicion* of Partiality. Where the Party accused has the Benefit of this Right, in that Case he, who is guilty, will seem to condemn himself.

183. The Sentences of the Judges, as well as the Proofs of the Crimes, ought to be communicated to the People; that every Citizen might say, *He lives under the Protection of the Laws*; a Sentiment, which inspires Courage in the Citizens, and is of the greatest Utility to a Sovereign, who has his *real Interest* at Heart.

184. It is highly necessary in all Laws, to specify exactly the principal Rules upon which the *Credibility* of the Evidence depends, and the *Strength* of the Proof required for every Crime.

185. Every

185. Every Man of good Sense, that is, whose Ideas have a Connection with each other, and whose Sensations sympathize with the Sensations of those who are like himself, is qualified to be a Witness. But the Credit due to his Evidence will be exactly *in Proportion*, as he *is interested* in declaring, or concealing the Truth. Credit must be given to Witnesses in every Case, where they have no Reason to give a false Testimony.

186. There are People, who estimate among the *Abuses* of Words, *those* which have *stolen secretly* into Use, and have already *taken strong Root* in worldly Transactions. That Observation is worthy of Remembrance, which induced Legislators to abolish the Evidence of a Malefactor after *Condemnation*. Such a Citizen is reckoned as *dead in Law*, say the Legislators, and a *dead Man* is incapable of producing any Fact. If the Evidence of a Malefactor, after Sentence of *Condemnation* only, should be no Obstacle to the judicial Course of Law, why do not they allow him a little more Time, even after *Condemnation*, for the Sake of Truth, and the terrible Destiny of the unfortunate Man; that he might either justify himself, or others who are accused, if he can but produce *new Proofs*, which may alter the Nature of the Fact?

187. Formalities are necessary in the Administration of Justice, but they must never be appointed in such a Manner by the Laws, as may prove fatal to Innocence, otherwise they would occasion great Inconveniences.

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188. There-

188. Therefore we may admit the Testimony of *any Person*, who has *no Reason* to be a false Witness. By these Means the *Credibility* of the Evidence, will be *greater or less, in Proportion* to the Hatred, or Friendship, or Connections, or Differences, *subsisting* between the *Witness* and the *Party* accused.

189. One Evidence alone is not sufficient. When the *Party* accused *denies* that which a single Evidence *affirms*, Truth remains *in Suspense*, and the Right that every one has to be esteemed *innocent*, will turn the Balance, in such a Case, on the Side of the *Party* accused.

190. The Credibility of a Witness is of so much the *less* Weight, as the Crime is *more* horrible, and the Circumstances of it are *less* probable. This Rule may be applied also in Cases of Witchcraft, or Acts of wanton Cruelty.

191. Whoever obstinately refuses to answer such Questions as are put to him by the Court, deserves Punishment; which ought to be appointed by the Law, and chosen out of the most rigorous of those which are already established, to the End that the *Guilty* might not screen themselves from being exposed as a *publick Example* to the People, which they ought to be. This particular Punishment is unnecessary, when no Doubt can be made that the *Party* accused has really committed the Crime he stands charged with; for Confession is no longer necessary, when other evident Proofs demonstrate that he is guilty. This last Case is the most common; because the Evidences generally depose the *chief Circumstances*

stances in criminal Cases, which the Guilty *refuse* to confess.

192. Q. 3. Whether the Torture of the Rack does not violate the Rules of Equity; and whether it produces the End proposed by the Laws?

193. The Torture of the Rack is a Cruelty, established and made use of by many Nations, and is applied to the Party accused during the Course of his Trial, either to extort from him a Confession of his Guilt, or in order to clear up some Contradictions, in which he had involved himself during his Examination, or to compel him to discover his Accomplices, or in order to discover other Crimes, of which, though he is not accused, yet he may *perhaps* be guilty.

194. (1.) No Man ought to be looked upon as *guilty*, before he has received his judicial Sentence; nor can the Laws deprive him of *their* Protection, before it is proved that he has *forfeited all Right* to it. What Right therefore can Power give to any to inflict Punishment upon a Citizen at a Time, when it is yet dubious, whether he is *innocent* or *guilty*? Whether the Crime be known or unknown, it is not very difficult to gain a thorough Knowledge of the Affair by duly weighing all the Circumstances. If the Crime be known, the Criminal ought not to suffer any Punishment but what the Law ordains; consequently the Rack is quite unnecessary. If the Crime be not known, the Rack ought not to be
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applied to the Party accused ; for this Reason, *That the Innocent ought not to be tortured* ; and, in the Eye of the Law, every Person is innocent whose Crime is not yet *proved*. It is undoubtedly extremely necessary, that no Crime, after it has been proved, should remain unpunished. The Party accused on the Rack, whilst in the Agonies of Torture, is not Master enough of himself to be able to declare the Truth. Can we give more Credit to a Man, when he is light-headed in a Fever, than when he enjoys the free Use of his Reason in a State of Health ? The Sensation of Pain may arise to such a Height, that, after having subdued the whole Soul, it will leave her no longer the Liberty of producing any proper Act of the Will, except that of taking the shortest instantaneous Method, in the very twinkling of an Eye, as it were, of getting rid of her Torment. In such an Extremity, even an *innocent* Person will roar out, that he is *guilty*, only to gain *some Respite* from his Tortures. Thus the very same Expedient, which is made use of to distinguish the *Innocent* from the *Guilty*, will take away the *whole Difference* between them ; and the Judges will be as uncertain, whether they have an *innocent* or a *guilty* Person before them, as they were before the Beginning of this *partial* Way of Examination. The Rack, therefore, is a sure Method of condemning an *innocent* Person of a weakly Constitution, and of acquitting a *wicked Wretch*, who depends upon the Robustness of his Frame.

195. (2.) The Rack is likewise made use of to oblige the Party accused to clear up (as they term it) the Contradictions in which he has involved himself in the Course of his Examination; as if the Dread of Punishment, the Uncertainty and Anxiety in determining what to say, and even gross Ignorance itself, common to both *Innocent* and *Guilty*, could not lead a timorous *Innocent*, and a *Delinquent*, who seeks to hide his Villanies, into Contradictions; and as if Contradictions, which are so common to Man even in a State of Ease and Tranquillity, would not increase in that Perturbation of Soul, when he is plunged entirely in Reflections, how to escape the Danger he is threatened with.

196. (3.) To make use of the Rack for discovering, whether the Party accused has not committed *other Crimes*, besides *that* which he has been *convicted* of, is a certain Expedient to *screen every Crime* from its *proper Punishment*: For a Judge will always be discovering new Ones. Finally, this Method of Proceeding will be founded upon the following Way of reasoning: *Thou art guilty of one Crime, therefore, perhaps, thou hast committed an Hundred others: According to the Laws, thou wilt be tortured and tormented; not only because thou art guilty, but even because thou mayest be still more guilty.*

197. (4.) Besides this, the Party accused is tortured, to oblige him to discover his Accomplices. But when we have already proved, that the Rack cannot be the proper Means for searching out the Truth, then how can it

give any Assistance in discovering the Accomplices in a Crime? It is undoubtedly extremely easy for him, who accuses himself, to accuse others. Besides, is it just to torture one Man for the Crimes of others? Might not the Accomplices be discovered by examining the Witnesses, who were produced against the Criminal? by a strict Inquiry into the Proofs alledged against him, and even by the Nature of the Fact itself, and the Circumstances which happened at the Time when the Crime was committed? In short, by all the Means which serve to prove the Delinquent guilty of the Crime he had committed?

198. Q. 4. *Must Punishments be proportioned to Crimes, and how are we to fix the Proportion?*

199. A Time ought to be fixed by the Law for collecting the Proofs, and whatever is necessary for carrying on the Prosecution of great Crimes; that the Guilty might not be able to stave off the Punishment they merit for any Length of Time, nor perplex the Affair. When all the Proofs shall be collected, and the Certainty of the Crime shall be known; Time and Means ought to be allowed the *Guilty*, for his Justification, if he is able to make it. But this Interval should be but short, lest Delays should prejudice the good Effect of the Punishment; which ought to follow the Crime as speedily as possible; a Method which is esteemed one of the most powerful Expedients for preventing People from committing Crimes.

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200. That the Punishment should not seem to proceed from the Violence of one, or many, who rise up against a Citizen, it ought to be public, as speedy as the Good of the Community requires, and as moderate as possible; and according to the Circumstances, proportioned to the Crime, and precisely *expressed* in the Laws.

201. Though Laws cannot punish the Intention; yet it cannot be said, that an Action, which is a *Prelude* to a Crime, and which *demonstrates* the violent Tendency of the Will to compleat that Crime in the very Act, should not deserve Punishment, though more moderate than any of those, which are established for a Crime already committed in Fact. Punishment, in this Case, is requisite, for this Reason, that it is highly necessary to *prevent* even the very *first Approaches* to a Crime; but as, between the *first Attempts*, and the *Completion* of a Crime, there might be some *Interval*; therefore it would not be amiss to leave the *greater* Punishment for the Crime *already completed*, in order to give some Encouragement to a Beginner in Wickedness; which may perhaps deter him from *completing* the Crime, he had just entered upon.

202. The same Punishment likewise must not be decreed for the Accomplices in any Villany, who are only *Accessory* to it, as for the Principals, who *actually committed* the Fact. If many Persons shall agree to hazard a Danger in Common, in that Case, the greater
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the Danger is, the more they will strive to bring every One into an equal Share of it. The Laws, which punish the *Principals* in a Crime with more Severity than those who are barely *accessory* to it, will prevent the Danger from being *equally* divided amongst the whole Confederacy, and will render it more difficult to find a Man who would take *the Whole* upon *himself*, in the Execution of any *concerted* Villany. For the Danger he exposes himself to, will be *greater*, just in the Proportion of that *greater* Degree of Punishment allotted for him, to that *smaller* Degree of Punishment *decreed* for the *rest* of his Confederates. There is only one Case, in which we can make an Exception to this general Rule; which is, when the Perpetrator of a Crime receives a *peculiar* Reward from his Confederates: In such a Case, as the *Difference* in point of *Danger* is recompenced by the *Difference* in point of the *Emolument*, his Punishment ought to be *equal* to that of the *whole Body* of the Confederates. These Considerations may seem extremely refined and delicate; but we ought to reflect, how essentially necessary it is, that the Laws should leave as little Room as possible, for *Confederates* in Villany to *agree* among themselves.

203. There are some States, which dispense with the Punishment of a *Confederate* in any great Crime, provided he *impeaches* his Accomplices. Such an Expedient has its Inconveniencies, when practised on some particular Occasions. A fixed standing Law, which promises *Pardon* to any Accomplice who *reveals* a
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Crime, ought to be preferred to a timely *particular* Discovery of it, on some particular Occasion. For such a Law may prevent the *Combination* of a *Crew* of Villains by striking such a Terror into all, as may prevent any one of them from taking the Danger *wholly* upon *himself*. But we ought afterwards to *observe this Promise sacredly*; and give full Assurance of taking *every Person* under Protection, who shall *rely* upon the *good Faith* of this Law.

204. Q. 5. *What is the proper Estimate of the Degrees of Crimes?*

205. The Intent of well-regulated Punishments, is not merely to torment a sensible Being: They are ordained for this wise End; which is, to prevent a Criminal from doing *farther* Injury to the Community for the future; and to *deter* his fellow Citizens from committing the *like* Offences. For this Reason, *such* Punishments, and *such* a *Mode* of inflicting them, ought to be selected, as will make the *deepest* and most *durable* Impression on the Minds of the People, and at the same Time with the *least* Cruelty to the Body of the Criminal.

206. Who can read, without being struck with Horror, the History of so many barbarous and useless Tortures, invented and executed without the least Remorse of Conscience, by *People* who assumed to themselves the *Name of Sages*? Who does not feel within himself a
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sensible Palpitation of the Heart, at the Sight of so many Thousands of unhappy Wretches, who have suffered, and still suffer: *frequently* accused of Crimes, which are *difficult, or impossible to happen*, proceeding often from *Ignorance*, and some-times from *Superstition*? Who can look, I say, upon the Dismembering of these People, who are executed with *slow and studied* Barbarity, by the *very Persons* who are *their Brethren*? Countries and Times, in which the most *cruel Punishments* were made use of, are those, in which the most *inhuman Villainies* were perpetrated.

207. That a Punishment may produce the *desired* Effect, it will be sufficient; when the *Evil* it occasions exceeds the *Good* expected from the Crime, including in the Calculation the *Excess* of the Evil over the Good, the undoubted *Certainty* of the Punishment, and the *Privation* of all the *Advantages* hoped for from the Crime. All Severity *exceeding* these Bounds is *useless*, and consequently *tyrannical*.

208. Wherever the Laws have been extremely severe, they have either been altered, or the Impunity of the Criminals arose from the very Severity of the Laws. The *Degrees* of Punishment ought to be referred to the present *Situation* and *Circumstances* in which every People *finds* itself. In *Proportion* as the *Minds* of those who live in a Community become *enlightened*, the *Sensibility* of every Individual *increases*; and if Sensibility increases
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amongst the Citizens, then the *Severity* of Punishments must *abate* in Proportion.

209. Q. 6. *Whether the Punishment of Death is really useful and necessary in a Community, for the Preservation of Peace and good Order?*

210. Proofs from Fact demonstrate to us, that the frequent Use of capital Punishment never mended the Morals of a People. Therefore, if I prove the *Death* of a Citizen to be neither *useful* nor *necessary to Society in general*, I shall confute *those* who rise up against Humanity. I repeat here, *to Society in general*; because the Death of a Citizen can *only* be useful and necessary in *one* Case; which is, when, though he be *deprived* of Liberty, yet he has *such* Power by his *Connections*, as may *enable* him to raise Disturbances dangerous to the publick Peace. This Case can happen only, when a People either loses, or recovers their Liberty; or in a Time of Anarchy, when the *Disorders* themselves hold the *Place* of Laws. But in a Reign of Peace and Tranquillity, under a Government established with the united Wishes of a whole People; in a State well fortified against external Enemies, and protected within by strong Supports; that is, by its own internal Strength and virtuous Sentiments rooted in the Minds of the Citizens; and where the whole Power is lodged in the Hands of a Monarch; in such a State, there can be *no* Necessity for *taking away the Life* of a Citizen. The twenty Years

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Reign of the Empress *ELIZABETH PETROVNA* gives the Fathers of the People a more illustrious Example for Imitation than a Reign of the most shining Conquests.

211. It is not the *Excess* of Severity, nor the *Destruction* of the human Species, that produce a powerful Effect in the Hearts of the Citizens, but the *continued Duration* of the Punishment.

212. The Death of a Malefactor is not so efficacious a Method of deterring from Wickedness, as the *Example continually remaining* of a Man, who is deprived of his Liberty for *this End*, that he might *repair*, during a Life of *Labour*, the *Injury* he has done to the Community. The Terror of Death, excited by the Imagination, may be more strong, but has not Force enough to resist that *Oblivion*, so natural to Mankind. It is a general Rule, that rapid and violent Impressions on the human Mind, *disturb* and *give Pain*, but do not *operate* long upon the *Memory*. That a Punishment, therefore, might be conformable with Justice, it ought to have *such* a Degree of Severity only, as might be sufficient to *deter* People from committing the Crime. Thence *I* presume to affirm, that there is no Man who, upon the least Degree of Reflection, would put the *greatest possible* Advantages he might flatter himself with from a Crime *on the one Side*, into the Balance against a Life *protracted* under a total Privation of Liberty, *on the other*.

213. Q. 7. *What Punishments ought to be inflicted for different Crimes?*

214. He who disturbs the publick Peace, who refuses to submit to the Laws, who breaks through those Ties, by which People are united in Society, and reciprocally defend each other, ought to be excluded from the Community; that is, to become *politically dead*.

215. There ought to be stronger Motives for the *Expulsion* of a *Citizen*, than of a *Stranger*.

216. A Punishment which declares a Man *infamous*, is a Mark of the publick *bad* Opinion, which deprives a Citizen of the Esteem and Confidence before reposed in him by the Community, and which expells him from the Fraternity existing between *Members* of the *same* Country. The *Infamy* inflicted by the Laws, ought to be the very same with that which *results* from universal Morality; for if an Action, which Moralists term *indifferent*, should be declared *infamous* by the Laws, then this bad Consequence would follow, that Actions, which for the common Good ought to be deemed *infamous*, will quickly cease to be reckoned so.

217. Great Care ought to be taken not to inflict corporal and painful Punishments upon those, who are infected with the Vice of Enthusiasm, either by pretending to Inspiration, or by counterfeiting a false Appearance of Sanctity. This Vice, founded upon Pride, and puffed

up by Self-conceit, will derive *Glory*, and *fresh* Nourishment from the *very* Punishment itself. There have been Instances of this in the late *secret Chancery* where *such Persons* used to come voluntarily on particular Days, merely for the Sake of suffering Punishment.

218. *Infamy* and *Ridicule*, are the *only* Punishments which ought to be employed against these *pretendedly* inspired, and *counterfeit* Saints. For these may *abuse* their *Pride*; and wise Laws, by opposing *those* Forces with Forces of the *same Kind*, will scatter, like Dust, that Admiration of these *false Doctrines*, which may *nestle* in the *weak* Minds of the Populace.

219. *Infamy* ought not be inflicted upon a *Number* of Persons at once.

220. A Punishment ought to be *immediate*, *analogous* to the *Nature* of the Crime, and *known* to the Publick.

221. The *sooner* the Punishment succeeds to the Commission of a Crime, the *more useful* and *just* it will be. *Just*; because it will spare the Malefactor the torturing, and useless Anguish of Heart about the *Uncertainty* of his Destiny. Consequently the Decision of an Affair, in a Court of Judicature, ought to be finished in as little Time as possible. *I have said before, that Punishment immediately inflicted is most useful*; the Reason is, because the *smaller* the Interval of Time is, which passes between

between the Crime and the Punishment, the *more* the Crime will be esteemed as a *Motive* to the Punishment, and the Punishment as an *Effect* of the Crime. Punishment must be *certain* and *unavoidable*.

222. The most certain Curb upon Crimes, is not the *Severity* of the Punishment, but the absolute Conviction in the People, that Delinquents will be *inevitably* punished.

223. The *Certainty* even of a small, but *inevitable* Punishment, will make a *stronger* Impression on the Mind, than the *Dread* even of *capital* Punishment, *connected* with the Hopes of escaping it. As Punishments become *more* mild and moderate; Mercy and Pardon will be *less* necessary in Proportion, for the Laws themselves, at such a Time, are replete with the *Spirit* of Mercy.

224. However extensive a State may be, *every Part* of it must depend upon the Laws.

225. We must endeavour to exterminate Crimes in general, *particularly* those which are *most* injurious to the Community: Consequently, the *Means* made use of by the Laws to deter People from the Commission of every Kind of Crimes, ought to be the *most* powerful, in proportion as the Crimes are *more* destructive to the Publick Good, and in proportion to the *Strength* of the Temptation, by which *weak*, or *bad* Minds may be *allured* to the
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the Commission of them. Consequently, there ought to be a *fixed* stated *Proportion* between *Crimes* and *Punishments*.

226. If there be two Crimes, which injure the Community *unequally*, and yet receive *equal* Punishment; then the *unequal* Distribution of the Punishment will produce this *strange Contradiction*, very little *noticed* by any one, though it frequently happens, that the *Laws* will punish Crimes, which *proceed* from *the Laws themselves*.

227. If the *same* Punishment should be inflicted upon a Man for killing an *Animal*, as for killing *another Man*, or for *Forgery*, the People will soon make no *Difference* between *those* Crimes.

228. Granting the Necessity and Conveniency of *uniting* People in *Societies*, we may *arrange* Crimes by a *Scale*, beginning from the *highest*, quite down to the very *lowest*; in which, the *first* Degree will consist of *those*, which tend to the *final* Dissolution, and *immediate* Ruin of the Community; and the *last*, of the *least* Provocation, which can be given to any *Individual* in the *Society*. Between these two *Extremes* will be comprehended all *Actions*, contrary to the *Good* of the Community, which are termed *Criminal*, decreasing *almost* imperceptibly from the *first*, or *highest* in this Scale, to the very *last* or *lowest*.

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It would suffice, if on *these Scales* should be marked regularly, by *Degrees*, all Actions deserving Blame, which belong to each of the four Species, which *We* have already enumerated in the seventh Chapter.

229. *We* have allotted the *first Degree* to *those Crimes*, which *tend* directly and immediately to the *De-struction* of the Community, and to the Injury of him, who is the *Head* of it; which are of the greatest *Importance*; because they are of all others the *most Fatal* to the Community; these are termed the *Crimes of High Treason*.

230. Next to this *first Degree* of Crimes follow *those*, which are *destructive* of the Security of *Individuals*.

231. It is indispensably necessary, that Criminals of *this Degree* should suffer the greatest of Punishments. Attempts against the Life and Liberty of a Citizen, are *Crimes* of the *most* atrocious Nature. In this Class are not only comprehended *Affassinations*, and *Murders* committed by the Populace; but even the *same Acts* of Violence committed by Persons of any *Rank* or *Dignity* whatsoever.

232. Also Robberies attended *with Violence*, or *without it*.

233. Personal Offences against the Honour of a Citizen; that is, which *tend* to deprive a Citizen of that
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just Share of Respect, which he has a Right to demand from others.

234. With regard to Duels, it may not be unnecessary to repeat again, what many have affirmed, and what others have wrote upon that Subject: That the *best Expedient* for preventing *these Crimes*, is, to punish the *Aggressor*; that is, the *Challenger*, who gave *Occasion* for the Duel, and to acquit the other as *innocent*, who was *compelled* to defend his Honour, without having given *any Cause* for the Challenge.

235. Smuggling of Goods is a *Real Robbery* of the State. This Crime took its *Origin* from the *Law itself*: For the *higher* the *Duties* are, the *greater* the Profit is which arises from *Smuggling*. Consequently, the Temptation is the *stronger*; which is still *more increased* by the *Opportunities* of doing it, where the *Circumference* to be guarded is of a *great Extent*, and when contraband Goods are *small* in *Bulk*. The Forfeiture of the contraband Goods, together with such other Goods as are found along with them, is *very just*. Such a Crime deserves severe Punishment; such as *Imprisonment* proportioned to the *Nature* of the Crime. The Imprisonment for a *Smuggler* ought not to be the *same*, as for a *Highway-man* or a *Murderer*; and the most *proper* Punishment seems to be, *to oblige the Offender to labour for the Publick, the Produce of which should be calculated, and settled according to the Value*
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of that Sum, of which he intended to defraud the Revenue.

236. We ought here to mention *Bankrupts*, or those who fail in Trade on account of *Debt*. The Necessity of good Faith, in Contracts for the Safety of Commerce, obliges the Legislator to allow *Creditors* the proper Means for obtaining *Payment* from their *Debtors*. But it is necessary to make a Distinction between the fraudulent and the honest Bankrupt. The honest undesigning Bankrupt, who can shew evidently, that either the Breach of Promise in his own *Debtors*, or *Losses* which have disabled them from making good their *Payment*; or *Misfortunes*, which human Prudence can neither foresee nor prevent, have ruined his Fortune; such a One ought not to be treated with the same Rigour as the fraudulent Bankrupt. For why should he be thrown into Prison? Upon what Account should he be deprived of his Liberty, the only Property that is left him? Why should he be subject to a Punishment, which is only proper for Criminals; and be compelled, through Despair, to repent of his Honesty? Let his Debt, if you please, stand charged against him, till his Creditors are intirely satisfied: Let him be denied the Liberty of removing into another Country, without Leave from those to whom he is indebted; and let him be compelled to employ his Industry and Abilities to effect such a Change in his Situation, as may enable him to make a clear Discharge of his Debts. That Law, therefore, is not to be justified,

fied, which deprives him of his Liberty, without the *least* Benefit to his *Creditors*.

237. We may, I think, be able to distinguish, on all Occasions, a Fraud attended with aggravating Circumstances, from a *great* Oversight; and a *great* Oversight from a *small* Oversight; and *this last* from perfect *Innocence*; and, by *this Distinction*, proportion the *Measure* of the Punishment provided by the Laws.

238. A wise and provident Law might prevent the greatest Part of these *fraudulent* Bankruptcies, and provide *proper* Expedients to guard against those Accidents, which may befall the *honest industrious Trader*. A publick *Register* for all mercantile *Contracts*, and free Liberty for every Citizen to *inspect* it on Occasion, and to act accordingly; and a *Fund* raised by a prudent Contribution of the Merchants; out of which the *unfortunate*, though *careful* Trader, might be properly assisted; *provided* these Establishments bring with them many great Advantages, and occasion no Difficulty in the Execution.

239. Q. 8. *Which are the most efficacious Means of preventing Crimes?*

240. It is better to *prevent* Crimes, than to *punish* them.

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241. To *prevent* Crimes, is the *Intention*, and the *End* of every good Legislation ; which is nothing more than the Art of conducting People to the *greatest* Good, or to leave the *least* Evil possible amongst them, if it should prove impracticable to *exterminate* the whole.

242. If we forbid many Actions, which are termed *indifferent* by the *Moralists*, we shall not prevent the Crimes, of which they *may* be productive, but shall *create* still *new* Ones.

243. Would you *prevent* Crimes? order it *so*, That the Laws might rather favour every *Individual*, than any particular Rank of Citizens, in the Community.

244. Order it *so*, that the People should fear *the* Laws, and *nothing* but the Laws.

245. Would you prevent Crimes? order it *so*, that the *Light of Knowledge* may be *diffused* among the People.

246. A Book of good Laws is nothing but a Bar to prevent the Licentiousness of injurious Men from doing Mischief to their fellow Creatures.

247. There is yet another Expedient to *prevent* Crimes, which is by *rewarding* Virtue.

248. Finally, the *most sure*, but, at the same Time, the *most difficult* Expedient to mend the Morals of the People, is a perfect System of Education.

249. In this Chapter will be found Repetitions of what has been said before; but they, who shall examine the Case with the least Attention, will perceive, that the Subject itself required it; and besides, it is very allowable to *repeat* more than once, whatever may be *useful* to Mankind.

C H A P. XI.

250. A Society of Citizens, as well as every Thing else, requires a certain fixed Order: There ought to be *some to govern*, and *others to obey*.

251. And this is the Origin of every Kind of Subjection; which feels itself more or less alleviated, in Proportion to the Situation of the Subjects.

252. And, consequently, as the Law of Nature commands *Us* to take as much Care, as lies in *Our* Power, of the Prosperity of all the People; we are obliged to alleviate the Situation of the Subjects, as much as sound Reason will permit.

253. And therefore, to shun all Occasions of reducing People to a State of Slavery, except the *utmost* Necessity

cessity should *inevitably* oblige us to do it; in that Case, it ought not to be done for our own Benefit; but for the Interest of the State: Yet even that Case is extremely uncommon.

254. Of whatever Kind Subjection may be, the civil Laws ought to guard, on the one Hand, against the *Abuse* of Slavery, and, on the other, against the *Dangers* which may arise from it.

255. Unhappy is that Government, which is compelled to institute *severe* Laws.

256. *Peter the Great* ordained, in the Year 1722, that Persons who were insane in Mind, and those who tortured their Vassals, should be put under the Tutelage of Guardians. This Injunction is executed with regard to the Objects of the first Part of it; the Reason why it is not put in Force with respect to the Objects of the last Part, is *unknown*.

257. In Sparta Slaves could not obtain the least Satisfaction in the Courts of Judicature: And the Extreme of their Unhappiness consisted in this, that they were not only the Slaves of *one* individual Citizen, but at the same Time of the *whole* Community.

258. Among the Romans, in Case of maiming a Slave, Regard was only paid to the Damage done by it to the Master. It was esteemed *equal* by them, whether
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ther a Wound was inflicted on a Beast, or on a Slave : Nothing was taken into Consideration, but only the *Diminution* in the Price of each : And even that turned to the *Interest* of the Master, *not* of the injured.

259. Among the Athenians, whoever treated a Slave with Cruelty, was punished with great Severity.

260. A great Number of Slaves ought not to be enfranchised all at once, nor by a general Law.

261. A Law may be productive of public Benefit, which gives some *private* Property to a Slave.

262. Let us finish all this, by repeating that *fundamental Rule* ; that the government which most resembles that of Nature, is that, whose particular Disposition answers best to the Disposition of the People, for whom it is instituted.

263. However it is still highly necessary to prevent those Causes, which so frequently incited Slaves to rebell against their masters ; but till these Causes are discovered ; it is impossible to prevent the like accidents by Laws ; though the Tranquillity, both of the one and of the other, depends upon it.

C H A P. XII.

264. *Of the Propagation of the human Species in a State.*

265. Russia is not only *greatly* deficient in the *number* of her Inhabitants; but at the same Time, extends her Dominion over *immense* Tracts of Land; which are neither peopled nor improved. And therefore, in a Country so circumstanced, *too much* Encouragement can never be given to the *Propagation* of the human Species.

266. The Peasants generally have twelve, fifteen, and even twenty Children by one Marriage; but it rarely happens, that one *Fourth* of these ever attains to the *Age* of Maturity. There must therefore be some Fault, either in their Nourriture, in their Way of Living, or Method of Education, which occasions this *prodigious* Loss, and disappoints the *Hopes* of the Empire. How flourishing would the State of this Empire be, if we could but ward off, or *prevent* this fatal Evil by proper Regulations!

267. You must add too to *this*, that two Hundred Years are now elapsed, since a *Disease* unknown to our Ancestors was imported from America, and *hurried* on the Destruction of the human Race. This Disease spreads *wide* its *mournful* and *destructive* Effects in *many* of our Provinces.

Provinces. The utmost Care ought to be taken of the Health of the Citizens. It would be highly prudent, therefore, to stop the Progress of this Disease by the Laws.

268. Those of Moses may serve here for an Example. LEVITIC. chap. xiii.

269. It seems too, that the Method of exacting their Revenues, *newly* invented by the Lords, diminishes both the *Inhabitants*, and the *Spirit of Agriculture* in Russia. Almost all the Villages are *heavily* taxed. The Lords, who seldom or never *reside* in their Villages, lay an Impost on every Head of one, two, and even five Rubles, without the least Regard to the *Means* by which their Peasants may be able to *raise* this Money.

270. It is highly necessary that the Law should prescribe a Rule to the Lords, for a more judicious Method of raising their Revenues; and oblige them to levy *such* a Tax, as *tends least* to separate the Peasant from his House and Family; this would be the Means by which Agriculture would become more extensive, and Population be more increased in the Empire.

271. Even now some Husbandmen do not see their Houses for fifteen Years together, and yet pay the Tax annually to their respective Lords; which they procure in Towns at a vast Distance from their Families, and wander over the whole Empire for that Purpose.

272. The

272. The more happily a People live under a Government, the more easily the Number of the Inhabitants increafes.

273. Countries, which abound with Meadow and Pasture Lands, are generally *very thinly* peopled; the Reason is, that *few* can find Employment in those Places: But arable Lands are much *more* populous; because they *furnish* Employment for a *much greater* Number of People.

274. Wherever the Inhabitants can enjoy the Conveniencies of Life, there Population will certainly increase.

275. But a Country, which is so overwhelmed with Taxes, that the People, with all their Care and Industry, can with the utmost Difficulty find Means for procuring a bare Subsistence, will, in length of Time, be deserted by its Inhabitants.

276. Where a People is poor for no other Reason, but because they live under oppressive Laws, and esteem their Lands not so much a *Fund* for their Maintenance, as a *Pretence* for their Oppression ; in such Places, the Inhabitants cannot increase. They have not the Means of Subsistence sufficient for themselves, how then can they think of yielding a Part of it to their Offspring ? They are not able to take Care of *themselves*, even in their *own* Illness ; how then can they bring up, and look after

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Creatures.

Creatures, which are in a State of *continual* Illness, that is, *Infancy*? They bury their Money in the Earth, and are afraid to let it circulate; and they fear to appear rich, because their Wealth might expose them to Persecution and Oppression.

277. The Ease of asserting, and the Incapacity for thoroughly examining an Affair, have induced many to affirm, *That the poorer the Subjects live, the more numerous their Families will be; and the heavier the Taxes are, the more readily they will find the Means of paying them.* These are two Sophisms, which ever did, and ever will bring Destruction upon Monarchies.

278. The Evil is almost incurable, when the Depopulation of the Country has been of long standing, from some internal Defect in the Constitution, and a bad Administration. The People drop off there by an imperceptible and almost habitual Malady. Born in Languor and Misery, under the Oppression, or false Maxims adopted by Government, they see themselves destroyed frequently, without perceiving the Causes of their Destruction.

279. In order to re-establish a State stripped in such a Manner of its Inhabitants, it will be in vain to expect Assistance from the Children, which may be born in future. This Hope is totally over: People in their Desert have neither Courage nor Industry. Lands, which might feed a whole People, can scarce yield Food for a

single Family. The common People in those Parts have no *Share* even in that, which is the *Cause* of their Misery; that is, the Lands which lie *fallow* and *uncultivated*, with which the Country abounds; either some of the principal Citizens, or the Sovereign, insensibly ingross the *whole Extent* of these desert Countries. The ruined Families have *left* their Oppressors the *whole* for *Pastures*, and the laborious Man has nothing.

280. In such Circumstances, the same Method ought to be followed through the whole Extent of that Country, which the Romans practiced in one Part of theirs. To *do*, in a Scarcity of Inhabitants, what they *did* in a Superfluity of them, to *divide* the Lands amongst the Families which *had none*, and to enable them to cultivate and improve them. This Division ought to be made without Loss of Time, as soon as ever one Man can be found who would undertake it on those Terms, that not a Moment might be lost before the Work is begun.

281. Julius Cæsar gave Premiums to those who had many Children. The Laws of Augustus were more forceable. He imposed Penalties upon those who refused to marry, and increased the Premiums of those who married, and also of those who had Children. But *these* Laws are not consistent with *those* of our orthodox Religion.

282. In some Countries particular Privileges are granted to married Persons: For Instance, that the Overseers,

and petty Justices in Villages, must be elected out of the married People only. Unmarried Persons, and those who have no Children, are neither qualified to transact publick Business, nor to preside in the Village Courts. He who has the most Children, takes the highest Place in that Court; and that Peasant, who has more than five Sons, is exempt from all Taxes.

283. Among the Romans, unmarried People were excluded from receiving Legacies bequeathed by the Last Wills of Strangers; and married Persons, who had no Children, were entitled only to a Moiety.

284. The Benefits which a Husband and Wife are able to leave reciprocally by Will to each other, were limited by Law. If they had Children by one another, they could bequeath each other their whole Substance; but, if they had none, they could only inherit the tenth Part after the Death of either, in consideration of their Marriage. And if they had Children by a former Marriage, they were allowed to bequeath each other as many tenth Parts as they had Children.

285. If a Husband absented himself from his Wife, upon any other Account than that of the publick Service, he was not allowed to inherit her Effects.

286. In some Countries, a certain Pension is appointed for those who have ten Children; and a larger for those who had twelve. But the Point does not consist in re-
warding

warding Fecundity only in married People; their Lives ought also to be made as easy as possible; that is, the Careful and Industrious ought to enjoy the Means of supporting themselves and their Families.

287. Temperance in the People conduces greatly to Population.

288. It is generally ordained by the Law, that Fathers should unite their Children in Marriage. But what Advantage will arise from this, if Oppression and Avarice should, in an illegal Manner, usurp the Authority of a Father? Fathers ought rather to be encouraged to unite their Children in Marriage, and not to be debarred the Power of marrying their Children according to their own Judgment.

289. With regard to Marriages, it would be highly necessary, and of great Importance, to define once *clearly* and with *Certainty*, the *Degree* of Consanguinity in which Matrimony is allowed, and the *Degree* in which it is forbid.

290. There are Countries where the Law [in case of Want of Inhabitants] gives the Freedom of Citizens to Foreigners; or those who are illegitimate, or born only from a Mother who is a Citizen: But when they have acquired a sufficient Number of Inhabitants by these Means, they admit them no longer.

291. The

291. The Savages of Canada burn their Prisoners of War; but if they have any vacant Huts, with which they can accommodate the Prisoners, they incorporate them with their own Nation.

292. There are People who, after the Conquest of other Nations, unite in Marriage with the Conquered: Thus they attach the conquered People to themselves, and increase their Numbers.

C H A P. XIII.

293. *Of handicraft Trades, and Commerce.*

294. There can be neither skilful Handicraftsmen, nor a firmly-established Commerce, where Agriculture is neglected, or carried on with Supineness and Negligence.

295. Agriculture can never flourish there, where no Persons have any Property of their own.

296. This is founded upon a very simple Rule: *Every Man will take more Care of his own Property, than of that which belongs to another; and will not exert his utmost Endeavours upon that, which he has Reason to fear another may deprive him of.*

297. Agri-

297. Agriculture is the most laborious Employment a Man can undertake. The *more* the Climate induces a Man to shun this Trouble, the *more* the Laws ought to animate him to it.

298. In China, the Emperor Bogdo Chan is informed annually of that Husbandman, who has distinguished himself most in his Profession, and makes him a Mandarin of the Eighth Order. That Sovereign begins every Year to open the Ground with a Plough, with his own Hands, and with the most magnificent Ceremonies.

299. It would not be improper to give a Premium to those Husbandmen, who bring their Fields into better Order than others.

300. And to the Handicraftsmen, who distinguished themselves most by their Care and Skill.

301. This Regulation will produce a Progress in the Arts, in all Parts of the Country. It was of Service, even in our own Times, in establishing very important Manufactories.

302. There are Countries, where a Treatise of Agriculture, published by the Government, is lodged in every Church, from which the Peasant may be able to get the better of his Difficulties, and draw proper Advantage from the Instructions it contains.

303. There

303. There are Nations inclined to Laziness. In order to exterminate Laziness in the Inhabitants, arising from the Climate, such Laws are to be made, as should deprive those, who refuse to work, of the Means of Subsistence.

304. All Nations inclined to Laziness are arrogant in their Behaviour; for they who do not work esteem themselves, in some Measure, Rulers over those who labour.

305. Nations who have given themselves up to Idleness, are generally proud: We might turn the Effect against the Cause from which it proceeds, and destroy Laziness by Pride itself.

306. For Government may be as strongly supported by *Ambition*, as it may be endangered by *Pride*. In asserting this, we need only represent to ourselves, on the one Hand, the innumerable Benefits which result from *Ambition*; such as, Industry, Arts, and Sciences, Politeness, Taste, &c.; and, on the other, the infinite Number of Evils arising from *Pride*, in some Nations; such as Laziness, Poverty, Disregard for every thing; the Destruction of Nations, who accidentally fall into their Power, and afterwards the Ruin of themselves.

307. As *Pride* induces some to shun Labour, so *Ambition* impells others to excell all the rest in Workmanship.

308. View

308. View every Nation with Attention, and you will find, that arrogant Pride and Laziness, most commonly, go Hand in Hand together.

309. The People of Achim are haughty and lazy : Such amongst them as have no Slaves of their own, hire one, if it be only to carry a small Bag of Rice a hundred Paces. They would look upon it as a Disgrace, if they should carry it themselves.

310. The Women in India think it a Scandal to learn to read : This Business, they say, belongs to the female Slaves, who chaunt the Hymns in their Temples.

311. A Man is not poor, because he has nothing ; but because he will do no Work. He who has no Estate, but will work, may live as well as he, who has an annual Income of a Hundred Rubles, but will do no Work.

312. A Tradesman who has taught his Children his Art, has given them such an Estate, as increases in proportion to their Number.

313. Agriculture is the first and principal Labour, which ought to be encouraged in the People : The next is, the manufacturing our own Produce.

314. Machines, which serve to shorten Labour in the mechanick Arts, are not always useful. If a Piece of Work, wrought with the Hands, can be afforded at a Price, equally advantageous to the Merchant and the Manufacturer; in this Case, Machines which shorten Labour, that is, which diminish the Number of Workmen, will be greatly prejudicial to a populous Country.

315. Yet, we ought to distinguish between what we manufacture for our Home-consumption, and what we manufacture for Exportation into foreign Countries.

316. Too much Use cannot be made of this Kind of Machines in our Manufactures, which we export to other Nations; who do, or may receive the same Kind of Goods, from our Neighbours, or other People; especially those who are in the same Situation with ourselves.

317. Commerce flies from Places where it meets with Oppression, and settles where it meets with Protection.

318. The Athenians did not carry on that extensive Commerce, which might have been expected from the Labour of their Slaves, the great Number of their Seamen, the Power which they had over the States of Greece, and, what exceeded all, the excellent Regulations of Solon.

319. In

319. In many Countries, where all the Taxes are farmed; the *Collection* of the Royal Revenues *ruins* Commerce, not only by its Inequality, Oppression, and extreme Exactions, but also by the *Difficulties* it occasions, and the *Formalities* it requires.

320. In other Places, where the Duties or Customs are *collected* upon the *good Faith* of the Importers, there is a wide Difference in respect of the Conveniencies for Traffick. One Word in Writing transacts the greatest Business. The Merchant is under no Necessity of losing Time in Attendance; nor obliged to employ *Clerks*, on purpose to remove the Difficulties started by the *Financiers*, or be *compelled* to submit to them.

321. The Liberty of Trading does not consist in a Permission to Merchants of doing whatever they please; this would be rather the *Slavery* of Commerce: What *cramps* the Trader, does not *cramp* the Trade. In free Countries the Merchant meets with innumerable Obstacles; but in despotic Governments he is not near so much thwarted by the Laws. England prohibits the Exportation of its Wool; she has ordained Coals to be imported to the Capital by Sea; she has prohibited the Exportation of Horses fit for Stallions; she obliges Ships, which Trade from her Plantations in America into Europe, to anchor first in England. By these, and such like Prohibitions, she *cramps* the Merchant; but it is for the *Benefit* of Commerce.

322. Wherever there is Trade, there are Custom-houses also.

323. The Object of Trade, is the Exportation and Importation of Goods, for the Advantage of the State: The Object of the Custom-houses, is a certain Duty, exacted from the same Exportation and Importation of Goods, for the Advantage likewise of the State; for this Reason a State ought to preserve an exact Impartiality between the Custom-house and the Trade, and to make such proper Regulations, that these two might never clash with each other: Then the People will enjoy there free Liberty of Commerce.

324. England has no Tarif, or fixed Book of Rates with other Nations: Her Tarif changes, as we may say, at every Session of Parliament, by the particular Duties, which she lays on, or takes off.

Strongly jealous of the Trade which is carried on in Her Country, She rarely engages herself in Treaties with other States, and depends on no Laws, but Her own.

325. Some Countries have made Laws, perfectly well calculated to humble those States, which carry on the Commerce of Oeconomy. They are forbidden to import any Commodities, except what are Raw, and not manufactured; and even those must be the Growth of their own Country; and they are prohibited from trading

ing thither in any Vessels, but what are constructed in that Country, from whence they come.

326. The State, which imposes these Laws, ought to be in a Condition to carry on the Trade itself with Ease, and without the Assistance of others; otherwise it would, at least, do *equal* Injury to itself. It is better to be concerned in Trade with such a Nation, as exacts little, and which the Necessity of Trade renders in some Measure attached to us: With such a People, who from their extensive Views, or Traffick, know where to dispose of their superfluous Merchandize; who are rich, and can take off a great Stock of Commodities; and who will pay for them in ready Money; who, if we may express ourselves in this Manner, are *necessitated* even by Interest to be *honest*; who are *pacifick* from *Principle*; who aim at *Profit*, but not at *Conquests*. It is better, *I* say, to be concerned with *such a Nation*, than with others, who are always *our Rivals*, and will grant us *none* of these Advantages.

327. It would be still more injurious to a State; if, in order to sell its Commodities, it should confine itself to one Nation only, upon this weak Pretence, that it will take off all our Goods at a fixed Price certain.

328. The true Maxim is, not to exclude any People from trading with us, without very important Reasons.

329. In

329. In many Countries Banks are established with good Success; which, by their Credit, have created *such new Signs* of Valuation, as have increased the Circulation. But, in order to establish the Credit of such Institutions under a monarchical Government, these Banks ought to be annexed to such *charitable Foundations*, as are esteemed *sacred*, and *independant of the Government*; and which have a *Grant* by Letters Patent, with which no Person *can*, or ought to *interfere*; such, for Instance, as *Hospitals, Orphan-Houses, &c.* that all Persons might be *persuaded*, and *firmly trust*, that the Sovereign will never violate the *sacred character* of *those Places*; nor incur the *Guilt of Sacrilege*, by seizing their Money.

330. One of the best Writers upon Laws gives us his Sentiments in the following Words. *People, incited by what they see practised in some Dominions, imagine, that it would be expedient to have Laws, which should encourage the Nobility to ingage in Commerce. This would be the Means of ruining the Nobility, without the least Advantage to Commerce. The Practice indeed is extremely wise in those Countries, where Merchants, though not ennobled, are yet capable of attaining the Rank of Nobility; they have the Hopes of obtaining that Rank, without labouring under the Inconveniencies, which actually attend it. They have not a more certain Method of rising above their present Profession, than by carrying it on with the utmost Assiduity, or meeting with such Success, as is generally accompanied with an affluent Fortune. It is repugnant*

pugnant to the true Spirit of Trade, that the Nobility should engage in it under a monarchical Government. It would be fatal to the Cities, as the Emperors Honorius and Theodosius affirm; and would destroy the Facility of buying and selling between the Merchants and the Plebeians. It is equally contrary to the Spirit of monarchical Government, for the Nobility to engage in Trade. The Custom allowed to the Nobility, in some Countries, of engaging in Trade, is one of the Means, which contributed most to weaken the Monarchical Government.

331. There are People, however, of a different Opinion; who judge, that such Noblemen may be permitted to Trade, as are not actually in the Service of the Government; but still with this Restriction, *that they conform themselves, in every Thing, to the Laws of Commerce.*

332. Theophilus seeing a Ship freighted with Merchandize for his Consort Theodora, ordered it to be burnt. *I am an Emperor, said he to her, and thou makest me a Master of a Vessel; which Way shall poor People be able to earn a Livelibood, if we turn Traders?* He might have added, “ Who will be able to restrain
 “ us, if we turn Monopolists? Who can compell us to
 “ make good our Contracts? The Courtiers, following
 “ our Example, will do the same; they will be more
 “ rapacious, and more unjust than we are. The People
 “ confide in our Justice, but not in our Opulence:
 “ The great Number of Taxes, which reduce them to
 ‡ “ Misery,

“ Misery, are convincing Proofs of our own Necessities.”

333. When the Portuguese and Spaniards lorded it over the East-Indies, Trade there produced such lucrative Branches, that their Sovereigns thought proper to seize upon them themselves. This destructive Measure ruined their Settlements in that Part of the World. The Viceroy of Goa granted exclusive Privileges to different Persons. No one can ever confide in such Sort of People; the Trade was ruined by the continual Change of the Parties, to whom it was intrusted. No one gave himself the least Concern about such a Kind of Trade; nor cared in how ruinous a Condition he left it to his Successor. The Profit centered in few hands, and was not sufficiently diffused.

334. Solon made a Law at Athens, that the Person of a Debtor should not be arrested for Debts on civil Contracts. This Law is very useful for the common domestick Affairs of the Citizens; but *We* ought not to follow it in Affairs relative to Commerce. For as Merchants are frequently obliged to intrust *large* Sums of Money for *very short* Times, to *give* them, and to *receive* them back; the *Debtor* ought in Justice to be always punctual to the Time appointed for the Payment; which implies a Power of *arresting* his Person. In Disputes arising from common civil Contracts among the Citizens, the Law ought not to allow the Arrest of the Person; because it sets a greater Value upon the *Liberty* of one Citizen,

Citizen, than the *private Interest* of another. But in *commercial Contracts*, the Law ought to set a *greater Value* upon the *Interest* of the *whole Community*, than upon the *Liberty* of a *private Citizen*. Yet this does by no Means exclude such Restrictions and Limitations, as Humanity and good Policy require.

335. That Law at Geneva is highly praise-worthy, which excludes all the Children of those who lived or died insolvent from the Magistracy, and even from a Seat in the great Council; unless they discharged the Debts contracted by their Parents. The happy Effect resulting from this Law produces a general Confidence for the Merchants, for the Magistrates, and for the City itself. The particular Credit of every Individual has, in that Place, the same Force as the united Credit of the Publick.

336. The Rhodians extended this Law much farther. Amongst them a Son could not possibly avoid the Payment of his Father's Debts, even though he should relinquish all Right to his paternal Inheritance. This Law of Rhodes was calculated for a State founded in, and supported by Commerce. The very Nature, therefore, of their Constitution seems to have required *this Exception* to be annexed to the Law, for the Encouragement of Commerce, *That all Debts contracted by the Father, after the Son had commenced Trader upon his own Account, should not affect, or deprive him of what Property he had acquired after that Period of Time.* A Merchant ought
X always

always to know thoroughly the Extent of his Contracts, and to conduct himself so, as never to exceed his capital Stock.

337. Xenophon is of Opinion, “ that a Premium
“ should be allowed to such of the Prefects of Trade,
“ as terminated soonest all Processes relating to Com-
“ merce.” He seems to have foreseen the Necessity of
the Consular Jurisdiction.

338. Affairs relating to Trade will hardly admit of
the Delay occasioned by judicial Formalities. They are
Actions produced *every Day* in Commerce, from which
others of the *same Nature* must *every Day* invariably
follow. They ought therefore to be *every Day* decided.
The Case is quite different with respect to *temporal* Af-
fairs, which chiefly influence *future* Events, and which
happen *but rarely*. We generally marry *but once*; we
do not make our *Wills*, or *bequeath* Gifts *every Day*,
and we can be of Age *but once*.

339. Plato affirms, that in a City which carries on no
Commerce by Sea, there is no Occasion for Half the
Number of civil Laws; which is extremely right. A
maritime Trade introduces People of *various* Nations into
the *same Place*; a great Number of *Contracts*, *different*
Kinds of Commodities, and different Methods of Gain:
Consequently, in a trading City, there are *fewer* Judges,
and *more* Laws.

340. The Law, which confiscates the Effects of any
Stranger to the Sovereign's Use in whose Territories he
happens

happens to die, and deprives the right Heir of his Inheritance; and the Law, which appropriates to the Sovereign, or his Subjects, the Cargo of a Ship wrecked upon their Coasts, are alike ill-judged and inhuman.

341. The Grand Charter, or *Magna Charta* of England, forbids the Seizure of the Lands or Revenues of a Debtor, if his moveable or personal Effects are sufficient to discharge his Debts, and he is willing to resign them to his Creditors; In such a Case, all his Effects are valued as *ready Money*. This Charter does not prevent the *Lands* and *Revenues* of an Englishman from being valued as *ready Money*, in the same Manner as his personal Effects. The Intention of this Prohibition was to protect the Debtor from the Hardships he might be exposed to from the Severity of his Creditors. Justice becomes *Oppression*, when strained so far beyond the *Bounds* of Equity, in Seizures for Debts, as to *deprive* the Debtor of that *Security*, which every Man has a *Right* to demand; and if *one Species* of Wealth is alone sufficient for the Payment of his Debts, there is no absolute Necessity for seizing *another*. And as *Lands* and *Revenues* are seized for the Payment of Debts, where no other Effects remain sufficient to satisfy the Creditors, it should seem, that *they* ought not to be excluded from the *Number* of those Signs, which are *valued as ready Money*.

342. The Proof of Gold, of Silver, and of Copper, in Coin, likewise the Impression and the intrinsic Value of the Coin, ought always to be regulated by *one*

fixed Standard, which should never *be varied* upon any Occasion; for *every Alteration* in the Coin *injures the Credit* of the State. Nothing ought to be so much *exempted* from Alteration, *as that* which is the *common Measure* of every Thing. Commerce, in its very Nature, is extremely uncertain, and it is highly injurious to add a new Degree of Uncertainty to that, which arises from the very Nature of the Thing itself.

343. There are Laws in some Countries, which prohibit the Subjects to sell their Lands, lest they should transport the Purchase-money into foreign Countries. These Laws might be of use at that Time, when the Wealth of any Country was so circumstanced, that it could not be transported to another without the utmost Difficulty. But since, *by the Invention of Letters of Exchange*, *Wealth* is, in some Measure, no longer the *sole Property* of any *particular* Country, and can with so much Ease *be transferred* from one Country to another; that ought to be termed *a bad Law*, which does not permit the Owner to dispose of *his Lands* as he thinks proper, and the Situation of his Affairs requires, just *as freely*, as he can *dispose* of his Money. This Law is bad too for this Reason, that it gives the Preference, in point of Advantage, to the *personal* over the *landed Estate*; because it prevents *Foreigners* from *settling* in that Country; and, finally, because it may be *easily eluded*.

344. It ever happens, that whoever forbids that which Nature itself dictates, or unavoidable Necessity requires, such a one will do nothing more, than only *reduce* those who practice it to be *dishonest*.

345. In commercial Countries, where great Numbers depend intirely upon their Art, the State is frequently obliged to provide for the Necessities of the Ancient, the Infirm, and the Orphans. A well-regulated State draws a Fund for their Subsistence from the very Arts themselves; it gives Work to some in proportion to their Abilities; and it teaches others to work, which is itself an Employment.

346. An Alms bestowed on a Beggar in the Street, can never acquit a State of the Obligation it lies under, of affording all its Citizens a certain Support during Life; such as wholesome Food, proper Cloathing, and a Way of Life not prejudicial to Health in general.

C H A P. XIV.

347. *Of Education.*

348. The Rules of Education are the fundamental Institutes which train us up to be Citizens.

349. Each particular Family ought to be governed upon the Plan of the great Family; which includes all the Particulars.

350. It

350. It is impossible to give a general Education to a very numerous People, and to bring up all the Children in Houses regulated for that Purpose ; and, for that Reason, it will be proper to establish some *general Rules*, which may serve *by Way of Advice* to all Parents.

I.

351. Every Parent is obliged to teach his Children the Fear of God, as the Beginning of all Wisdom, and to inculcate into them all those Duties, which God demands from us in the ten Commandments, and our orthodox Eastern Greek Religion, in its Rules and Traditions.

352. Also to inculcate into them the Love of their Country, and to enure them to pay due Respect to the established civil Laws, and to reverence the Courts of Judicature in their Country, as those, who, by the Appointment of God, watch over their Happiness in this World.

2.

353. Every Parent ought to refrain *in Presence* of his Children, not only from *Actions*, but even *Words* that tend to Injustice and Violence ; as for Instance, *Quarrelling, Swearing, Fighting, every Sort of Cruelty, and such like Behaviour* ; and not to allow those who are about his Children *to set them such bad Examples*.

3.

354. He ought to forbid his Children, and those who are about them, the *Vice* of *lying*, though even in *jest*; for *Lying* is the most pernicious of *all Vices*.

355. We shall add here, for the Instruction of every Man in particular, what has been already printed, and serves as a *general Rule* for the Schools already founded, and which are still founding by *Us*, for *Education*, and for the *whole Society*.

356. *Every one ought to inculcate the Fear of God into the tender Minds of Children, to encourage every laudable Inclination, and to accustom them to the fundamental Rules, suitable to their respective Situations; to incite in them a Desire for Labour, and a Dread of Idleness, as the Root of all Evil, and Error; to train them up to a proper Decorum in their Actions and Conversation, Civility, and Decency in their Behaviour; and to sympathise with the Miseries of poor unhappy Wretches; and to break them of all perverse and froward Humours; to teach them Oeconomy, and whatever is most useful in all Affairs of Life; to guard them against all Prodigality and Extravagance; and particularly to root a proper Love of Cleanliness and Neatness, as well in themselves as in those who belong to them; in a Word, to instill all those Virtues and Qualities, which join to form a good Education; by which, as they grow up, they may prove real Citizens, useful Members of the Community, and Ornaments to their Country.*

C H A P.

CHAP. XV.

357. *Of the Nobility.*

358. The Husbandmen, who cultivate the Lands to produce Food for People in every Rank of Life, live in Country Towns and Villages. *This is their Lot.*

359. The Burghers, who employ their Time in mechanick Trades, Commerce, Arts, and Sciences, *inhabit the Cities.*

360. *Nobility* is an Appellation of *Honour*, which distinguishes all those who are adorned with it from every other Person of *inferior Rank*.

361. As amongst Mankind there were *some more* virtuous *than others*, and who at the same Time distinguished themselves *more* eminently by their *merit*, the People in ancient Times agreed to dignify the *most* virtuous, and the *most* deserving, by this *honourable Appellation*, or *Title*, and determined to *invest* them with *many Privileges* which are *founded* upon the *Principal Rules of Virtue and Honour* above mentioned.

362. They proceeded still farther, and regulated by Law the Means by which *this Dignity* might be obtained from the Sovereign, and pointed out *those bad Actions* by which it might be forfeited.

363. *Vir-*

363. *Virtue with Merit raises People to the Rank of Nobility.*

364. Virtue and Honour ought to be the Rules, which prescribe *Love for their Country, Zeal for its Service, Obedience and Fidelity to their Sovereign*; and continually suggests, *never to be guilty of an infamous Action.*

365. There are few Ways which lead so directly to the Attainment of Honours, as the military Service. To defend their Country, and to conquer its Enemies, is the first Duty, and Proper Employment of the Nobility.

366. But though the military Art is the most ancient Way of attaining the Rank of Nobility; and though the military Virtues are essentially necessary for the Existence and Support of the State;

367. Yet still Justice is no less required in Time of Peace than in War; and the State would be destroyed without it:

368. And from hence it proceeds, that this Dignity is not attached solely to the Nobility; but may be acquired by the *civil* Virtues, as well as by the *military*.

369. Whence it still follows, that no one can lose the Rank of Nobility, but he who forfeits it by a Conduct
Y directly

directly opposite to the *Rules of Virtue and Honour*, on which his Dignity was founded; and by such means renders himself unworthy of that Appellation;

370. And the Honour and Preservation of the Purity of that Dignity require, that he, who by his ill Conduct has violated the *Rules* on which his Title is founded, should be excluded, after Conviction, from the Number of the Nobility, and be deprived of that Dignity.

371. The Actions, which render a Man unworthy of the Appellation of *Noble*, are *Treason, Robbery, Theft* of all Kinds, the *Violation of Oaths*, or his *solemn Word given, false Evidence*, which he either gave himself, or *suborned* others to give; *Forgery* of false Deeds, Letters, or any such Kind of Writings:

372. In a Word, every *Fraud* contrary to *Honour*, especially those *Actions*, which *degrade* a Man, and bring him into *Contempt*.

373. And the Preservation of Honour intire, consists in the *Love of their Country*, and *Observance of all its Laws and Duties*: From whence will follow,

374. *Praise and Glory*, especially to *that Race*, which can reckon up among *their Ancestors* more of such Persons, who were *adorned* with *Virtue, Honour, Merit, Fidelity* and *Love to their Country*, and consequently *to their Sovereign*.

375. And

375. And the Prerogatives of the Nobility ought to be founded on all the above-mentioned Qualifications, which compose the very *Essence* of the Appellation of *Nobleman*.

C H A P. XVI.

376. *Of the middling Sort of People.*

377. I have mentioned in the xvth Chapter, *that those People who inhabit the Cities, apply themselves to handicraft Trades, Commerce, Arts, and Sciences.* In whatever State the *fundamental Qualification* for the Rank of Nobility is established, *conformably* with the Rules prescribed in the xvth Chapter, it is no less *useful* to establish the Qualification of Citizens upon *Principles* productive of *Good Manners and Industry*, by which the People, we here treat of, will enjoy that *Situation*.

378. This Sort of People, of whom we ought now to speak, and from whom the State expects much Benefit, are admitted into the *Middling Rank*, if their *Qualifications* are firmly *established* upon *Good Manners, and Incitements to Industry*.

379. People of *this Rank* will enjoy a State of Liberty, without intermixing either with the *Nobility* or the *Husbandmen*.

380. To this Rank of People, we ought to annex all those who are neither *Gentlemen*, nor *Husbandmen*; but employ themselves in *Arts*, *Sciences*, *Navigation*, *Commerce*, or *handicraft Trades*.

381. Besides these, all those, who are not of the *Nobility*, but have been educated in *Schools* or *Colleges*, of what Denomination soever, *ecclesiastical* or *civil*, founded by *Us* and *Our* Ancestors:

382. Also the Children of People belonging to the Law. But as in that *third Species*, there are different Degrees of Privilege, therefore we shall not enter into a Detail of Particulars; but only open the Way for a due Consideration of it.

383. As the whole Qualification, which intitles People to this *middling* Rank, is founded upon good Manners and Industry; the Violation of these Rules will serve, on the Contrary, for their Exclusion from it; as for Instance, *Perfidiousness* and *Breach of Promise*, especially if caused by *Idleness* and *Treachery*.

C H A P. XVII.

384. *Of the Cities.*

385. There are Cities of different Kinds, and of *greater* or *less* Importance, according to their Situation.

386. In some Cities more Trade is carried on by Land, or by Water, than in others.

387. In other Cities the Merchandize is only collected together to be forwarded to other Places.

388. There are likewise some, which only serve as Places of Sale for the Products brought by the Husbandman of that and other Districts.

389. The one flourishes by Manufactories.

390. The other, lying nearer the Sea, enjoys all these and other Advantages.

391. The third Sort draws Benefit from Fairs.

392. The other are Capitals, &c.

393. Though there are many *different* Situations of the Cities, yet they all in general agree *in this*, that *one particular Law* is necessary for them all, *viz.* to determine *what* a City is, *who* is to be deemed an *Inhabitant* in it, and *who* are to compose the *Community* of that City, and *who* are to *enjoy* the Benefit of the Advantages arising from the natural Situation of the Place, and *how* a Person may be *admitted* a Citizen?

394. The Appellation of Citizen is *appropriated* to those who are entitled to share in the beneficial Situation of
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of the City, by the Possession of a House and Property in it of their own. These are engaged for the Sake of their own happy Situation, and for their *Privileges* as Citizens, with respect to *Security* as to Life, Health, and Property, to pay *different* Taxes; in order to *enjoy* these Conveniencies, as well as their other acquired Wealth, without *Hindrance* or *Molestation*.

395. But those who do not give this *common Pledge*, as we may term it, are not *intitled* to the Privileges of Citizens.

396. Having fixed the *fundamental* Rules for Cities, it remains now to examine into what particular Advantages, and what Commodities, every Kind of City may enjoy, without Detriment to the common Interest; and *what Regulations* ought to be established for their *mutual* Benefit?

397. In the Cities, where an extensive Trade is carried on, they ought strictly to observe, that *Credit*, in every Branch of Commerce, can only be *preserved* by *Honesty* in the Citizens: For *Honesty* and *Credit* are *the Soul* of Commerce; and where Art and Deceit get the *better* of *Honesty*, there is an *End* of *Credit*.

398. Towns are very necessary in the Districts, where the Husbandman might dispose of the Produce of the Land, and his own Labour, and furnish himself with whatsoever he has occasion for.

399. The

399. The Cities of Archangelgorod, of St. Petersburg, of Astracan, of Riga, of Revel, and such like, are Cities and Sea Ports. Orenburg, Kachta, and many other Cities, carry on other Kinds of Trade: Whence we may clearly perceive, how great an *Analogy* the *Situation* of Places bear to the *civil* Regulations; and that, without a thorough Knowledge of all the *particular* Circumstances, it is impossible to make the *Situation* of every City *beneficial*.

400. With respect to the *exclusive* Trade of Companies of Artificers, and the Establishment of Companies for Trade in Cities, the Question is still greatly agitated, whether it is better to establish Companies of Handicraft Trades in Cities, or to reject them; and *which* of those Regulations will conduce most to the *Advancement* of Manufactories and Trade?

401. It is most certain, that the Establishment of Companies for handicraft Trades is useful, but they are sometimes injurious; particularly when the Number of Workmen is limited; for this *very* Limitation *binds* the *Increase* of handicraft Trades.

402. In many Cities in Europe, where the Number of the Members is *not limited*, and any one may be *admitted* to the *Freedom* of the Company whenever he pleases; it has been observed, that *such Companies* contribute to the enriching of those Cities.

403. In Cities where there are few People, Companies might be of use, in order to have *able* People in handicraft Trades.

C H A P. XVIII.

404. *Of Inheritances.*

405. The Order of Inheritance is founded upon the Principles of the political or *civil* Law, and not upon the Law of Nature.

406. The Division of Property, the Laws respecting this Division, and the Inheritance after the Death of him who made this Division, could not have been regulated otherwise than by the Community, and consequently by the political or civil Law.

407. The natural Law enjoins the Fathers to nourish and educate their Children, but does not oblige them to make them their *Heirs*.

408. For Instance, a Father who has brought up his Son to some Art or handicraft Trade, by which he can earn his Bread, may enrich him more by that Means, than if he should leave him his small Property, which might only serve to make him idle and lazy.

409. It

409. It is true that political or civil Order often requires, that Children should inherit after their Fathers, but does not always insist upon it.

410. This Rule is *general*. To bring up their Children, is an *Obligation* of the Law of Nature; but to *give* them their Inheritance, is the *Regulation* of political or civil Law.

411. Each State has proper Laws for the Possession of Property, which answer to the Regulations of the State: Consequently, the Patrimony ought to be enjoyed according to the Manner prescribed by the Laws.

412. And a fixed inviolable Law ought to be made for the Succession to a Patrimony, that the right Heir might be easily known, and no Disputes or Complaints arise about it.

413. Every Law ought to be observed by the whole Community, and no Particular of it should ever be allowed to be violated by any private Regulation of the Citizens.

414. Since the Order of Inheritance was settled amongst the Romans by a political Law of the State; none of the Citizens were allowed to violate it by his own *private* Will; that is, in the first Ages of Rome, no one was allowed to *make* a Will. However, it was a most cruel Circumstance, that a Man, at his last Hour, should be deprived of the Power of bestowing Favours.

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415. But

415. But an Expedient was contrived to reconcile the Laws, in this Respect, with the Last Wills of Individuals. They were allowed to *dispose* of their Property by Will, in the publick Assembly ; and thus each *Last Will* was, in some Measure, an *Act* of the legislative Power of that Republick.

416. In succeeding Ages, that, unlimited Permission granted to the Romans, of making Bequests by Will, contributed, by imperceptible Degrees, to the Destruction of that political Ordinance, the *Partition of Lands* ; and was the *chief* Cause of introducing that *great* and *fatal* Difference between the Rich and Poor. Many Shares of Land *centered* in one Owner ; and some Citizens had *too much*, whilst an infinite Number of others had *nothing*, and by that Means became an *insupportable* Burden to the Publick.

417. The ancient Laws of Athens did not allow a Citizen to make a Will : Solon permitted every Citizen to do it, except those who had Children.

418. But the Roman Legislators, overawed by the imaginary Power of a Father, permitted them to make Wills even prejudicial to their Children.

419. It must be acknowledged, that the ancient Laws of the Athenians were more consonant to good Sense than the Laws of the Romans.

420. There are States, where they observe a *Medium* in all these Cases ; that is, where they allow *acquired* Property.

Property to be *disposed* of by Will ; but forbid a Village to be *divided* by Will into *different* Shares. And if the Inheritance of the Father by Descent, or, to speak more properly, his Patrimony, should be sold or spent, it was enacted, that a *Portion equal* to that Patrimony should be given to the lawful Heir out of the purchased or *acquired* Estate, unless he should be disqualified by Law, as unworthy of the Inheritance. In this last Case, the next Heir *after* him was to succeed to it.

421. As the lawful Heir, so the Heir chosen pursuant to the Will of the Testator, may *accept* of, or *refuse* the Inheritance.

422. The Daughters among the Romans were excluded from inheriting by Will ; for this Reason, they provided for them by *Fraud* under a *false* Name. This Law constrained People either to make themselves *infamous*, or to *violate* the Laws of Nature, which inculcate in us the Love of our Children. These are Cases which ought carefully to be avoided in constructing Laws.

423. Since nothing so much *weakens* the Force of Laws, as the Possibility of *evading* them by *Art* ; *useless* Laws likewise diminish the Respect due to *useful* ones.

424. Among the Romans, Wives were permitted to be Heiresses, when it was agreeable to the Law for the *Partition* of Lands ; and, when it was contrary to that Law, they were debarred the Right of Succession.

425. *My* Opinion in this Affair inclines more to the Division of Property; as *I* esteem it *My* Duty to wish, that every one should have a *Competency* sufficient for his *Livelihood*. Besides, Agriculture, by this Method, will arrive to greater Perfection; and the State will receive more Benefit from several *Thousands* of Subjects, who enjoy a *moderate* Competency, than from a few *Hundreds* who are *immensely* rich.

426. But the Division of Property should not be prejudicial to ancient *general Rules* (at a Time for regulating the Laws) as *much*, or perhaps *more* conducive to the Preservation of the whole State; which Rules should therefore not be laid aside, without due Consideration.

427. The Division according to the Number of Peasants, which has been hitherto customary, is detrimental to Agriculture, and falls heavy with respect to Taxes, and reduces the last Partakers to Poverty; but, on the Contrary, the Division of an Inheritance into certain Portions is agreeable with the Preservation of all these fundamental Rules, and with the *general* and *particular* Interest of every one.

428. A Person under Age is a Member of the *domestic Family*, and not of the *Community*, till he attains the Age of Maturity: It is necessary, therefore, to regulate the Guardianship of such *Minors*; as for Instance,

429. 1st,

429. 1st, For Children which are left Orphans at the Death of their Parents, and have not yet attained the Age of Maturity ; and therefore cannot be intrusted with the *full Power* over their Fortune, lest they should *squander* it away before they come to *Years* of Discretion.

430. 2^{dly}, So likewise for *Lunaticks*, or those who have *lost* their Senses.

431. 3^{dly}, Also for People in the like unhappy Circumstances.

432. In some free States, the Laws allow the nearest Relations of a Man, who has squandered away the *Moiety* of his Fortune, or has contracted Debts to the *Amount* of that *Moiety*, to sequester the *other Moiety* of it. The Revenues of this remaining *Moiety* are divided into *two* Parts ; *one* Part is allowed him for his Support, and the *other* is appropriated to the Payment of his Debts ; and, at the same Time, he is restrained from selling or mortgaging it deeper. When his Debts are discharged, the Fortune, which his Relations held for him in Trust, is given back for his own Benefit, in case he should reform his Manners ; but if he should persist in his former Course of Life, they allow him only the Income of it.

433. It is necessary to establish Rules adapted to every one of these Cases, that the Law might preserve every Citizen from such Acts of Violence, and such Extremities, as may happen in those Circumstances.

434. The

434. The Laws which intrust the Guardianship of a Child to the Mother, consider most the Preservation of the remaining Orphan ; and those which intrust it to the nearest Heir, attend most to the Preservation of the Fortune.

435. In Nations corrupt in their Manners, the Legislators intrusted the Guardianship of an Orphan to the Mother ; and in those where the Laws could place a Confidence in the Manners of the Citizens, they gave the Guardianship to the Heir of the Fortune, and sometimes to both of them.

436. Women, among the Germans, were never permitted to be without a Guardian. Augustus made a Law, " That those Women who had born three Children should be exempted from the Power of Guardianship."

437. The Roman Laws permitted the Bridegroom to make Presents to his Bride, and the Bride to do the same to the Bridegroom, *before* Marriage ; but *after* Marriage, that Practice was forbidden.

438. A Law of the Western Goths ordained, " That the Bridegroom should not make a Present to his future Spouse of more than the *tenth* Part of his Fortune ; and that, in the first Year of their Marriage, he should make her no Present at all."

C H A P. XIX.

439. *Of the Composition of Laws.*

440. The whole Body of Laws ought to be divided into three Parts.

441. The first Part is to be intituled *Laws*.

442. The second is to be denominated *the momentary Regulations*, which depend upon Circumstances.

443. The third is to be named *the Injunctions*.

444. Under the Word *Laws* are comprehended all the *fundamental Institutions*, which ought never to be altered, and the Number of such can never be large.

445. Under the Denomination of *momentary Regulations*, is comprehended that *Order* by which all Affairs are to be carried into Execution, and the different Instructions and Institutions which relate to them.

446. The Word *Injunctions* includes in it whatever is made upon some Emergency, and what is only occasional, or relates to some particular Person, and may be *altered at any Time*.

447. Every

447. Every Subject, according to the *Order* and *Place* to which it belongs, is to be inserted separately in the Code of Laws. — For Instance, Judicial, Military, Commercial, Civil, or the Police, City and Country Affairs, &c. &c.

448. Each Law ought to be written in so clear a Style, as to be perfectly intelligible to every one; and, at the same Time, with great Conciseness: For which Reason Explanations, or Interpretations, are undoubtedly to be added (as Occasion shall require), to enable the Judges to perceive more readily the *Force* as well as *Use* of the Law. The martial Law is full of Examples of the like Nature, which may easily be followed.

449. But the utmost Care and Caution is to be observed in adding these Explanations and Interpretations; because they may, sometimes, rather *darken* than *clear up* the Case; of which there are many Instances.

450. When Exceptions, Limitations, and Modifications are not absolutely necessary in any Law, in that Case it is better not to insert them: For *such* particular Details generally produce still *more* Details.

451. If a Legislator desires to give his Reason for making any particular Law, that Reason ought to be *good*, and *worthy* of the Law. Amongst the Roman Laws, there is one, which determines, that a blind Man should not plead in a Court, for this Reason, because
he

he does not see *the Insignia* of the Magistracy. This Reason is extremely weak, when so many better might be given.

452. Laws ought not to be filled with subtile Distinctions, to demonstrate the quick Parts of the Legislator; they are made for People of *moderate* Capacities, as well as for those of *Genius*. They are not a *Logical Art*, but the simple and plain Reasoning of a Father, who takes Care of his Children and Family.

453. *Real* Candour and Sincerity ought to be *displayed in every Part* of the Laws, and as they are made for the Punishment of Crimes, they ought consequently to *include* in themselves the greatest *Virtue* and *Benevolence*.

454. The Style of the Laws ought to be simple and concise: A *plain direct* Expression will be always better understood, than a *studied* one.

455. When the Style of Laws is *tumid* and *inflated*, they are looked upon only as a Work of *Vanity* and *Os- tentation*.

456. Laws ought not to be wrote in Words of a *vague indeterminate* Meaning, an Instance of which is here produced. "The Law of one Greek Emperor punishes
" that Man with Death, who shall purchase a freed Man
" like a Slave, or *who shall disquiet him*." Such a vague indeterminate Expression as *disquiet* ought not to be made

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use of. The *Disquiet* we give a Man depends wholly upon the *Degree of Sensibility* he is endued with.

457. The Style of the Code of Laws of Czar Alexis Michailowiz, of blessed Memory, is in general clear, simple, and concise. We listen with Pleasure when Extracts are quoted from it; no one can mistake the Meaning of what he hears: The Words in it are understood even by Persons of middling Capacities.

458. Laws are made for the whole Body of the People: It is the Duty of every Individual to act conformably to them; consequently, it is absolutely necessary that every Individual should understand them.

459. The *sublime*, or lofty, and elevated Expressions, are studiously to be avoided; nor should one unnecessary Word be added in the Construction of a Law; that every one, at first Sight, might readily and clearly comprehend its Meaning.

460. Due Care is likewise to be taken, that, amongst the Laws, there should be none which do not answer the End they were made for; that is, none which abound in Words, and are deficient in Sense; which, in their Contents, are trifling, and in their Style, *bombast*.

461. Laws which prescribe *those* Actions as highly necessary, which partake *neither* of Vice *nor* Virtue, are subject to this pernicious Consequence, that they oblige
 4 People,

People, at the same Time, to esteem Actions *unavoidably necessary* as *unnecessary* ones.

462. Laws for pecuniary Mulcts or Fines, which mark precisely the Sum of Money payable for particular Offences, ought at least to be re-examined every *fifty Years*; because the Payment of that Sum, which at one Time was a *sufficient* Penalty, may be *none at all* at another; for the Value of Money changes, in proportion to the Quantity of Wealth in a Nation. There was once a whimsical fellow at Rome, who gave a Box on the Ear to all he met, and paid every one immediately *five and twenty Pence*, which was the *Mulet* inflicted by the Laws for that Offence.

C H A P. XX.

463. *Of the different Statutes which require Explanation.*

464. (A.) The Crime of High-treason.

465. Under this Denomination are comprehended *all Crimes* against the Safety of the Sovereign and the State.

466. The Style of all Laws ought to be expressed in *clear and concise* Terms; but there are none which re-

quire *more* Precision and Conciseness in their Construction, and *more nearly concern* the Security of the Citizens, than the Laws relating to *the Crime* of High-treason.

467. The Liberty of a Citizen is endangered by nothing so much as by judicial and oblique Accusations in general. How dangerous then would it be, if this important Statute should remain *obscure*? For the Liberty of a Citizen depends chiefly upon the *Goodness* and *Excellency* of the penal Laws.

468. The penal Laws are not to be intermixed with the Laws, which regulate the judicial Forms.

469. If the Crime of High-treason is laid down in the Laws in *vague indefinite* Terms, it will then be productive of an Infinity of different Abuses.

470. The Chinese Laws, for Instance, decide, That whoever does not shew *proper Respect* to the *Sovereign* is to be punished with Death. But as they do not *define* what is *not shewing proper Respect*, in that Case any Thing will furnish a Pretext for taking away the Life of whoever they please, and destroying the whole Family of any Person whom they chuse to ruin.

Two Persons commissioned to write the *Court Gazettes*, having inserted in the Account or Description of an Affair of no Consequence, some Circumstances which proved not to be *strictly true*; it was declared, that to *lie* in the
Court

Court Gazettes is to be wanting in *the Respect due to the Court*; and they were both put to Death.

One of the Princes of the Blood having *inadvertently* put some Mark upon a Memorial signed by the Emperor, it was decided, that he did not shew *due Respect* to *Bogdo-Chan*; which occasioned a most horrible Persecution against the Prince and his whole Family.

471. To denominate an Action *High-treason*, which is absolutely *not so*, is a most flagrant Abuse of the Law. A Law of the Roman Emperors prosecuted those as guilty of *Sacrilege*, who questioned the *Merit* of any Person to whom they thought proper to give an Employment, and consequently condemned them to die.

472. Another Law declared those guilty of *High-treason*, who coined false Money; but they are to be considered as no more than *Robbers* of the State. Thus the Ideas of Things, *different* in their Nature, are confounded.

473. To affix the Name of *High-treason* to a Crime of a different Nature, is only to lessen the Horror for the Crime of High-treason.

474. A Roman Governor wrote Word to an Emperor, that a Process was preparing against a Judge for *High-treason*, who had pronounced a Sentence contrary to the Ordinances of that Emperor; the Emperor replied, that,

that, in his Reign, the Crimes of *indirect* High-treason were *not* to be admitted in Courts of Judicature.

475. There was a Law among the Romans, which ordained, that whoever should throw any Thing, though by Accident, against the Images of the Emperors, should be punished as guilty of *High-treason*.

476. There was a Law in England, which declared all those guilty of *High-treason* who should *foretell* the Death of the King. In the last Illness of that King, no Physician dared to inform him of the Danger he was in: We may presume, that they acted in the same Manner with respect to the Cure.

477. A Man *dreamed* that he killed a King: That King ordered him to be put to Death, declaring that he would not have dreamed of it in the Night, if he had not often *meditated* upon it in the Day-time. This was a terrible Act of Tyranny; for though he had even *intended* it, yet he had not *attempted* to put his Design in Execution. The Laws are not obliged to punish any Acts but external or *overt* Acts only.

478. When a great Number of Crimes were included in the Term *High-treason*, it became unavoidably necessary to *distinguish* and *proportion* the Punishment to the *Nature* of the respective Crime; it was therefore, at last, decreed, that no Crimes should be *deemed* High-treason, but those which *indicated an Intention* against the Life
and

and Security of the Sovereign, and against the State and such like; to which Crimes they annexed the severest Punishment.

479. This Kind of Actions does not happen every Day; many People may have an Opportunity of taking Notice of them: A false Accusation with *respect to Facts* may be easily cleared up.

480. *Words*, accompanied with *Actions*, partake of the *Nature* of those Actions; therefore, a Man who goes to publick Places to excite the Subjects to Rebellion, will be guilty of *High-treason*; because the *Words*, accompanied with the *Action*, partake of its *Nature*. In this Case the Laws do not punish for the *Words*, but for the *Action* committed, at the Time when the *Words* were made use of. *Words* are never imputed as a *Crime*, unless they *prepare*, or *accompany*, or *follow* the *criminal Action*. He who tortures *Words* into a *Crime* worthy of Death, perverts the whole Order of Things: *Words* ought to be esteemed only the *Sign* of a *Crime*, worthy of capital Punishment.

481. Nothing renders the Crime of *High-treason* more dependent upon the *arbitrary* Interpretation and *Will* of another, than when *indiscreet Words* are the *Subject* of it. Words *spoken* in Conversation are so subject to *arbitrary* Interpretations, and so great a Difference subsists between *Indiscretion* and *Malice*, and so little between *indiscreet* and *malicious* Expressions, that the

the Law can by no Means subject *Words* to capital Punishment; at least, without *expressly specifying* those *particular Words* which it declares treasonable.

482. And, consequently, *Words* do not form the *Essence* of a Crime; they frequently signify *nothing* of *themselves* but by the *Tone of Voice* they are pronounced with. Frequently a Repetition of the *same Words* does not give the *same Sense*; this *Sense* depends upon the *Connexion* with what *preceded* or *followed*. Sometimes *Silence* expresses *more* than *Words*. There is nothing so *equivocal* and *uncertain*, as this whole *Affair* about *Words*. How then can so capital a Crime as *High-treason* be made of *Words*, and punished in the *same* Manner as the very *Action* itself? I mean not to lessen the Indignation which every one ought to have for *those*, who try to *tarnish* the Glory of their Sovereign; but will say this, that simple corrective Punishment will *suit better*, on these Occasions, than the *Charge of High-treason*, which is always terrible even to *Innocence* itself.

483. *Writings* contain Things, which are more durable than *Words*; but if they do not *lead* to the Crime of *High-treason*, they cannot, *of themselves*, constitute the *Essence* of *High-treason*.

484. Satirical Writings are prohibited in Monarchies; but they make them *a Misdemeanor* subject to the *Police* of the Town, and not *a Crime*: And great Care ought to be taken, in the Examination of *these Libels*, how we
extend

extend it farther; representing to ourselves, that Danger of *debasing* the human Mind by *Restraint* and *Oppression*; which can be productive of nothing but *Ignorance*, and must *cramp* and *depress* the *rising Efforts* of Genius, and destroy the *very Will* for Writing.

485. Slanderers ought to be punished.

486. In many States, the Law obliges all Persons, under Pain of capital Punishment, to discover even those Conspiracies which they know of *only by Hearsay*, and *not* by any Communication with the Conspirators. It is highly necessary that this Law should be executed with the *utmost Severity*, in Cases of the *highest Degree* of Treason.

487. And it imports us greatly not to confound the *different Degrees* of this *Crime*.

488. (B.) *Of Judgments by particular Commissions.*

489. The most useless Thing to sovereign Monarchies is, to nominate sometimes *particular Judges*, or *Commissioners*, to try some of their Subjects. Such Judges ought to be *virtuous* and *upright Men*; that they might not think to justify themselves by *their Orders*, by some *secret Interest* of the State, by the *Choice* made of *their Persons*, and by *their own Fears*. So little Benefit accrues from Trials by *Commissioners*, that it is not worth

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the Trouble of altering the *common* Forms of Trial for that Purpose.

490. This Method too may be productive of an Abuse highly dangerous to the publick Safety. Of this we shall here produce an Instance. In England, in the Time of some of their Kings, they judged the Members of the House of Peers by *Commissioners* chosen out of the same Body; and by this Method they put to Death whatsoever Peers they pleased.

491. Among *Us* they often embroiled the Discussion of an Affair by nominating *such Kind* of Judges, both by their Opinion in that Affair, and the judicial Sentence consequent upon it.

492. However there is a wide Difference between collecting all the Informations and Circumstances relative to any Affair whatsoever, and giving our Opinion, or judging that Affair.

493. (C.) *Rules necessary, and of great Importance.*

494. In such a State as *Ours*, which extends its Sovereignty over so many different Nations, to forbid, or not to allow them to profess *different Modes* of Religion, would greatly indanger the Peace and Security of its Citizens.

495. And

495. And the most certain Means of bringing back these wandering Sheep to the true Flock of the Faithful, is a *prudent Toleration* of other Religions; not repugnant to our orthodox Religion and Polity.

496. The human Mind is irritated by Persecution, but the Permission to *believe* according to *one's Opinion*, softens even the most *obdurate* Hearts, and draws them gradually from their *inveterate* Obstinacy, by *stifling* their Disputes; which are detrimental to the *Tranquillity* of the State, and the *Union* of the Citizens.

497. We ought to be extremely cautious in the Examination of Persons accused of *Witchcraft* and *Heresy*. Accusations of these two Crimes may break terribly in upon the Tranquillity, Liberty, and Welfare of the Citizens; and prove the Source of innumerable Acts of Tyranny, unless *Bounds* are set to them by the Laws. For as this Kind of Accusation does not directly strike at the Actions of a Citizen, but the imaginary Idea which People form of his Character, it becomes highly dangerous, in proportion to their *Ignorance*; and, in that Case, a Citizen will always find himself in Danger; because neither the *most* exemplary Behaviour in Life, nor the *most* conscientious Discharge of every moral Duty, can protect him against the Effects of Suspicions of these Crimes.

498. In the Reign of the Greek Emperor Manuel Comnenus, the Protestator was accused of a Conspiracy

against the Emperor, and of making use of certain *secret Incantments*, which rendered People invisible.

499. They write in the History of Constantinople, that after a Revelation was published, that a miraculous Power had ceased by the *magical Art* of a particular Person, both he and his Son were condemned to die. Upon how many different Circumstances did this Crime depend, which a Judge was obliged to unravel? 1st, That the Miracle had ceased; 2^d, That, at the Time of this Cessation of the Miracle, *magick Art* had been practised; 3^d, That this *Incantment* could put a Stop to the Miracle; 4th, That the Man accused was a *Conjuror*; 5th, and lastly, That *he* had done this *Act of Incantment*.

500. The Emperor Theodore Lascaris ascribed his Illness to *Incantment*. Those who were accused of it had no other Way of proving their Innocence, but *by handling a red-hot Iron without burning themselves*. They joined here, to the most *uncertain Crime* in the World, the most *uncertain Proofs* for its Discovery.

501. (D.) *How can we know, when a State approaches to its Fall, and entire Dissolution?*

502. The Corruption of every Government generally begins by the *Corruption of its fundamental Principles*.

503. The

503. The fundamental Principles of a Government are not only corrupted, when they extinguish that Idea of the State ingrafted in the Minds of the People by the Law, which may be termed the *Equality* prescribed by the Laws; but even then, when this *Idea of Equality* shall take root in the People, and grow to such a Pitch of Licentiousness, that every one aims at being equal to him, who is ordained by the Laws to rule over him.

504. If they do not shew Respect to the *Sovereign*, to the *Courts of Judicature*, and to *Governors*; and if they do not respect the *Ancient*, neither will they respect *Fathers*, nor *Mothers*, nor *Masters*; and the State insensibly will run to ruin.

505. When the fundamental Principles of Government are corrupted, then the *Regulations* introduced in it are termed *Hardships*, or *Severities*. The established *Rules* are termed *Restraints*; what was *Caution* before, is now termed *Fear*. The *Property* of particular Persons constituted, in former Times, the *Wealth of the People*; but now the *Wealth of the People* becomes the *Inheritance of particular Persons*, and the Love of their Country vanishes.

506. In order to preserve the *fundamental Principles* of a well-regulated Government inviolate, the State ought to be supported in its present Grandeur; and this State will fall to Decay, if its fundamental Principles should be altered.

507. There

507. There are two Kinds of Corruption; the first is, when *the Laws are not observed*; the second when *the Laws are so bad, that they corrupt themselves*; and the Evil then is *incurable*; because the *Remedy* of the Evil is to be found only in *itself*.

508. A State may change also two different Ways; either because the Constitution of it *mends*, or because the *same* Constitution *corrupts*. If the *fundamental* Principles in a State are preserved, the Constitution of it *mends*; but if the fundamental Principles of it are destroyed, the Constitution *changes*, and then it *corrupts*.

509. The *more* capital Punishments increase, the *more* a State is in Danger of Destruction; for capital Punishments *increase* in Proportion to the *Corruption* of Manners, and Corruption of Manners produces the *Ruin* of a State.

510. What destroyed the Reign of the Posterity of Cina and Sunhy, says some Chinese Author, is this:
 “ That those Sovereigns, not content with the general
 “ Inspection of Affairs, which alone become a Sovereign,
 “ would govern every Thing immediately by themselves,
 “ and brought all the Causes before themselves, which
 “ ought to have been decided by the different Courts of
 “ Judicature, instituted for that Purpose.”

511. A Monarchy is destroyed, when the Sovereign imagines, that he displays his Power more by *changing* the Order of Things, than by adhering to it, and when he is more fond of *his own Imaginations* than of *his Will*, from which the Laws proceed, and have proceeded.

512. It is true, there are Cases, where Power ought and can exert its full Influence, without any Danger to the State. But there are Cases also, where it ought to act according to the *Limits* prescribed by itself.

513. The supreme Art of governing a State consists in the *precise* Knowledge of *that* Degree of Power, whether *great* or *small*, which ought to be exerted according to the *different* Exigences of Affairs: For, in a Monarchy, the Prosperity of the State depends, in Part, on a mild and condescending Government.

514. In the best constructed Machines, Art employs the *least Moment*, *Force*, and fewest Wheels possible. This Rule holds *equally good* in the Administration of Government; the most *simple Expedients* are often the *very best*, and the *most intricate* the *very worst*.

515. There is a certain Facility in the Method of governing: It is better for the Sovereign to *encourage*, and for the Laws to *threaten*.

516. That Minister is ill qualified for his Office, who shall always tell you, " That the Sovereign is displeased ;

“ that he is unexpectedly prevented; that he will act as
“ he pleases.”

517. It would be a grievous Misfortune to a State, if no one should dare to represent the Danger of some future Accident; nor excuse his bad Success, proceeding from ill Fortune; nor presume to speak his Mind freely.

518. But if any one should inquire, *When* a Sovereign ought to punish, and *when* to pardon? this is a Point which can be more easily *felt* than *prescribed* to. When *Lenity* is dangerous; the *Dangers* arising from it are extremely *obvious*. It is easy to distinguish *Lenity* from that *Weakness*, which brings the Sovereign into an Aversion for punishing, and into such a Situation, that he cannot himself *decide whom he ought to punish*.

519. It is certain, that a *high* Opinion of the *Glory* and *Power* of the Sovereign, would *increase* the *Strength* of his Administration; but a *good* Opinion of his *Love of Justice*, will *increase it at least as much*.

520. All this will never please those Flatterers, who are daily instilling this pernicious Maxim into all the Sovereigns on Earth, *That their People are created for them only*. But *We* think, and esteem it *Our* Glory to declare, “ That *We* are created for *Our* People;” and, for this Reason, *We* are obliged to Speak of Things just as they ought to be. For God forbid! that, after this
Legislation

Legislation is finished, any Nation on Earth should be more just; and, consequently, should flourish more than Russia; otherwise the Intention of *Our* Laws would be totally frustrated; an Unhappiness *which I do not wish to survive.*

521. All the Examples and Customs of different Nations, which are introduced in this Work, ought to produce no other Effect, than to co-operate in the Choice of those Means, which may render the People of Russia, humanly speaking, the *most happy* in themselves of any People upon Earth.

522. Nothing more remains now for the Commission to do, but to compare every Part of the Laws with the Rules of these Instructions.

C O N C L U S I O N.

523. *Perhaps some Persons may object, after perusing these Instructions, that they will not be intelligible to every one. To this it may be answered: It is true, they will not be readily understood by every Person, after one slight Perusal only; but every Person may comprehend these Instructions, if he reads them with Care and Attention, and selects occasionally such Articles as may serve to*

direct him, as a Rule, in whatever he undertakes. These Instructions ought to be frequently perused, to render them more familiar: And every one may be firmly assured, that they will certainly be understood; because,

524. *Affiduity and Care will conquer every Difficulty; as, on the Contrary, Indolence and Carelessness will deter from every laudable Attempt.*

525. *To render this difficult Affair more easy; these Instructions are to be read over once, at the Beginning of every Month, in the Commission for composing the New Code of Laws, and in all the subordinate Committees, which depend upon it; particularly the respective Chapters and Articles intrusted to their Care, till the Conclusion of the Commission.*

526. *But as no perfect Work was ever yet composed by Man; therefore, if the Commissioners should discover, as they proceed, that any Rule for some particular Regulations has been omitted, they have Leave, in such a Case, to report it to Us, and to ask for a Supplement.*

The Original signed with Her Imperial Majesty's own Hand, thus,

CATHERINE.

Moscow, July 30.
1767.

THE FIRST
SUPPLEMENT
TO THE
GRAND INSTRUCTIONS.

CHAP. XXI.

527. *Of good Order, otherwise termed Police.*

528. The Order in general in a State is frequently understood by the Term *Police*.

529. *We Ourselves* will explain in this Chapter what *We* mean here by the Term *Police*.

530. To the Care of which every Thing appertains, which conduces to the Preservation of *good Order* in a Society.

531. The Institutes of this *Department* are intirely of a *different* Kind from the rest of the Civil Laws.

532. There are a Kind of Criminals, whom the *Laws punish*.

533. There are others whom they only *correct*.

534. The first Sort are subject to the Rigour of the Law, and the other to its Authority; the former are excluded from the Society, the latter, on the contrary, are *compelled* to live in the Society, according to the *established Rules*.

535. The *Objects* of the Police are *Affairs*, which may happen every Hour, and are generally Matters of little Consequence; and, therefore, judicial Formalities are here quite unnecessary.

536. The Police is continually taken up with particular Details, or with Trifles; consequently Affairs which require a great Length of Time, in order to their being thoroughly examined into, are by no Means fit to come under the Cognizance of *this Department*. In many Places, Affairs, after the Expiration of a certain limited Number of Days, are sent to those Courts of Judicature, to which they belong.

537. The Actions of the Police ought not to be in the least tedious; and they are exercised in Cases, which happen over and over again every Day. And, consequently, the great Punishments can have no Place here; and the great Examples of Justice are not made for *this Department*.

538. *Regulations* are more necessary for it than *Laws*.

539. The

539. The Persons, who belong to it are always under the Eye of the civil Magistracy, and the wise Regulations of the Police prevent them from the Commission of great Crimes.

540. For this Reason *High Violations* of the Laws ought not to be confounded with the *simple Violation* of the Police: These Things must not be *ranked* in the *same Order*.

541. From hence it follows, for Instance, that the Action of a *certain Sultan*, who ordered a *Baker to be impaled*, who had been detected in a Fraud, is the Action of a *Tyrant*, who does not know how to execute Justice but by *exceeding the Measure of Justice itself*.

542. It is extremely necessary to separate those Cases, in which the Police ought to *punish*, from those, in which it ought only to *correct*.

543. It is not sufficient to find out Disorders, and to contrive *Means* to prevent them: It ought, besides, to look with a watchful Eye, that those *Means* should be put in Execution at the very Instant the Cases happen.

544. And this is a Part of the Argument proposed to be resolved here; which, in many Countries, is totally neglected; however, *without it*, the *other* Parts of the Chain, (if one may make use of the Expression) which

which connect the Government of the whole State, will fall into Disorder.

545. Exactly the same Confusion has happened in the Regulations of *this Department*, as with *that* Number of Houses, which *compose* a City, *where* the *Plan of the Ground* was not regularly *marked out* before the People *began* to build. When People begin to build in a City so circumstanced, every one fixes upon a Spot, which he thinks most convenient, without the least Regard either to the *Symmetry* or *Extent* of the Place he had selected: Whence a *Heap* of Edifices are *buddled* together, which can hardly ever be brought into a *regular* Form by the Efforts and careful Attention of *whole Ages*. The Laws for the Preservation of good Order are equally *liable* to the *same* Irregularities.

546. The Number of those Regulations increases, in proportion to the Necessities of the State; but to bring them into such *regular* Order, that they might always be *properly* carried into Execution, without *any Difficulty*, or *Obstruction*; will be the *Masterpiece of Science*, with respect to *this Offspring* of the Laws.

547. These Regulations ought to be divided into two Species.

548. The first contains in itself the *Police* of the City.

549. The

549. The second, the Police of the Country.

550. This last has neither *Objects*, nor *Extent* equal to the first.

551. In these Departments, *particular* Care and Attention ought to be given to what follows here below.

552. (1.) Not to allow any Thing which may disturb the Celebration of divine Service in Places appointed for that Purpose, and that *Order*, and proper *Decorum* should be *observed* by the Citizens, at the Time of the *Procession with the Cross*, and such like *Rites* and *Ceremonies*.

553. (2.) Purity of Manners is the *second* Object for the Preservation of good Order, and comprehends in itself whatsoever is necessary to repress Luxury, to deter from Drunkenness, to put a Stop to the Progress of prohibited Games, to regulate the publick Bagnios, and publick Spectacles, in order to restrain the Licentiousness of *those People*, who lead *bad* Lives, and to drive out of the Community *those*, who *cheat* the People, under the *Demonination* of Magicians, Fortune-tellers, Prophets, and such like *Impostors*.

554. (3.) Health is the *third* Object of the Police, which obliges *it* to extend *its* Care to the Salubrity of the Air, the Cleanliness of the Streets, Rivers, Wells, and Water-Springs; and to the *Quantity* of Provision of

Eatables and Drinkables; and, finally, to those *common* Maladies which increase among the People, as well as to those which are *contagious*.

555. (4.) To the most watchful Care for the Conservation of every *Species* of *Corn*, even before the Harvest, and for the Preservation of Cattle, and Meadows for their Pasture, of Fisheries, &c. *It* ought to prescribe *general* Rules for all *these* Things according to their *various* Circumstances, and direct *what* Precautions *ought* to be taken for the *future*.

556. (5.) To the *Security* and *Firmness* of Buildings, and *such* Rules as are *proper* to be observed in *this* Case, by the different Artists and Workmen, upon whom the *Strength* and *Goodness* of the Building *depends*: To the Preservation of Pavements, of the Decoration, and Ornaments of Cities; of *free* Way in the Streets for *Passengers*, who either *walk* or *ride*; of the *general* Rates for Carriage of Goods or Persons; of the Inns, &c.

557. (6.) The Tranquillity of the People requires, that *sudden* *Accidents* should be prevented, as well as *other* *Casualties*; such as *Fires*, *Robberies*, &c. And therefore certain Rules are prescribed for the Preservation of this Tranquillity; such, for Instance, as to put out *all* *Fires* at the *appointed* Hours, to *shut up* their Houses, to set such Vagabonds and Persons *to work*, as can *give no Account* of themselves, and shew *which* *Way* they gain a *Livelihood*; or to *expell* them the City; to forbid

bid such Persons to carry Arms, who have *no Right* to do it, &c. ; to prohibit *unlawful* Assemblies, or *rendezvous*, and to forbid the Dispersion of *seditions*, or *scandalous Libels*. To endeavour, at the Ending of the Day, to preserve the Town in *Peace* and *Safety*, and, in the *Night-time*, to *light* the Streets, &c.

558. (7.) To regulate and establish *one true Weight* and *Measure*, and to prevent the Practice of any *Kind of Fraud*.

559. (8.) Servants hired by the Year, and those who work by the Day, compose an *Object* of this Department, both to *keep* them to their Duty, and likewise to enable them to *obtain* their *just Due punctually* from those who hire them.

560. (9.) Finally, Beggars, and *particularly* such of them as are *sick*, or *impotent*, come under the Care of *this Administration*. In the *first* Place, to set those to work, who beg for Charity, but have the *Use* of *their Limbs* ; and, at the same Time, to give a *certain Maintenance*, and the *Means* of Cure, to *those* who are *sick* or *impotent*.

561. As the *Intention* and *End* of the Institution of this Administration is *good Order*, and *Decency* in general, in the *Dwellings* of the Citizens, it evidently follows,

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that

that *every* Member of the Society, of *whatsoever Rank* he may be, is *dependent* upon *this* Administration.

562. Where the Limits of the Power of the *Police* end, there the Power of the *civil* Jurisdiction begins.

563. For Instance, *the Police* takes a Thief, or Criminal, into Custody: *It* examines him, but *it* recommends the *Decision* of the Business to that Court of Judicature which his Case properly belongs to.

564. From the whole of what has been mentioned above, it evidently appears, that this Administration ought not to inflict severe Punishments on the Delinquents. It is sufficient, in order to curb Licentiousness, and to keep the Affairs intrusted to its Care in proper Order, that its Punishments should consist in *Corrections*, *Amercements*, and such other Penalties as bring Shame and Infamy upon those who are guilty of bad and scandalous Actions, and to keep up a due Respect and Obedience in all the other Inhabitants to this Administration.

565. There is an established Rule in the Courts of Judicature, not to judge of any Affairs, except those which are brought before them *regularly*, and *in due Form*, in order to be heard.

566. On the Contrary, the *Business of the Police* is to *discover* Crimes, leaving the *Decision* of all criminal Cases

Cases to the other Courts of Judicature, to which *It* refers them for *that Purpose*.

The Original signed with *Her Imperial Majesty's* own Hand, thus,

CATHERINE.

ST. PETERSBURGH,
February 28, 1768.

THE SECOND
SUPPLEMENT
TO THE
GRAND INSTRUCTIONS.

C H A P. XXII.

567. *Of the Expences, Revenues, and publick Management of the Finances ; that is, of the Oeconomy of the State, otherwise termed the Direction of the Exchequer.*

568. Every one here ought to say to himself, *I am a Man, and think myself interested in every Thing which affects Mankind.*

569. And consequently, (1.) *The Man* ought not, nor ever can be forgotten.

570. (2.) There is very little done by *Man*, which is not done for *Man* ; and, for the most Part, all Things are done by *him*.

571. The

571. The first of these two last Expressions requires the greatest possible *Notice* and *Attention*, from the *Dignity* of its *Object*.

572. The second requires *much Gratitude*, and sincere *Benevolence*, to the *pains-taking Labourer*.

573. A Man, whatever he should *happen* to be, whether a Sovereign or a Plowman, a Handicrafts-man or a Merchant ; whether he who eats the *Bread of Idleness*, or he, who, by his Industry and Labour, gives him *the Means* of doing it ; whether the Governor or the Governed ; every *Individual* of *all these* is still but a *Man*. This one *emphatical Word* gives already a perfect Idea of all his *Necessities*, and of all the *Means* of supplying them.

574. How many more *Wants* must that Multitude of People still *labour under*, who are united in one common Cohabitation in a State.

575. Whatever occasions the publick *Expences* of a State, is here termed the *Necessities* of the State, and consists in the following Particulars.

576. The Preservation of the entire State:

(1.) By maintaining the *Means* for its Defence ; that is, the Land and maritime Forces, the Fortresses, Artillery, and every other *Necessary* that belongs to it.

577. (2.)

577. (2.) By preserving the interior Order, Quiet, and Safety of *every one* in particular, and *of all* in general; by maintaining Persons for executing Justice, keeping good Order, and inspecting into the different Establishments, which conduce to the *general Good*.

578. (3.) By *Means* which conduce to the publick Utility; such for Instance, as the Building of Cities, making Roads and Drains, scouring Rivers, the Regulation of Schools, Infirmarys, and other innumerable Objects, the Particulars of which the Conciseness of this Work does not permit *Us* to describe.

579. (4.) Decency requires, that Affluence and Magnificence should surround the Throne, as the Source of Prosperity to the whole Community; from which flow Rewards, Encouragements, and Bounties; for all which, *Expence* is not only *necessary* but *highly* useful.

580. After this short Description of the Expences of the State, it is now proper to speak of its *Revenues*, and the *Means* of collecting it in the *Manner least* burthensome to the Publick.

581. Taxes are an *Offering*, which every Citizen *makes*, in order to preserve his own peculiar *Welfare, Safety, Life, and Property*; as was remarked above.

582. But (1st.) On what Objects ought Taxes to be imposed?

583. (2^d.)

583. (2*d*.) How are they to be made least burthen-
some to the People?

584. (3*d*.) How to levy them with the least Ex-
pence?

585. (4*th*.) How to prevent Frauds in the Revenue.

586. (5*th*.) How they are to be directed?

587. These are the Questions necessary to be resolved,
though attended with great Difficulty.

588. Remarks upon the (1*st*). Politicians reckon five
Objects, on which Imposts are generally laid.

(I.) Persons.

(II.) Property.

(III.) Family Improvements, which are made use of
by the People.

(IV.) Goods exported and imported.

(V.) Deeds, Bonds, &c.

589. Upon the (2*d*). Taxes, which are esteemed
least burdensome, are those, which are paid voluntarily,
and without Constraint, and regard all the Inhabitants
of a State in General, and increase *in proportion* to the
Luxury and Prodigality of *each* Individual.

590. But,

590. But, in order to render the Imposts less sensibly felt by the Subjects, this ought, at the same Time, to be constantly observed as a general Rule, *Never to allow of a Monopoly on any Pretence whatever*; that is, never to grant the Privilege of any particular Trade to any one, *exclusive of every other Person*.

591. Upon the (3^d). The Diminution of the Expence, in levying those Imposts, requires a particular Consideration with respect to those Trifles, where the Duty, sometimes, is not worth the Expence of collecting it, which should be excluded from the Number of Taxables.

592. Upon the (4th). The more *substantial* the People shall happen to be, the *more able* they will find themselves to pay the Taxes *faithfully*.

593. It may be mentioned here, that, in general, there are Taxes; which, from their very Nature, are subject to many Difficulties, and Inconveniencies; the Means of preventing which ought to be discovered. Others, where the Expence of collecting the Duty exceeds the Revenue arising from it, are of very little Consequence.

594. At the same Time, the Reason, why Deficiencies happen in some Places, deserves strictly to be inquired into?

595. Is

595. Is it because the Circulation of Money is less there, than in other Places?

596. Or is it, because the Exportation of their Superfluities becomes burdensome?

597. Or, because the People are still deficient in Arts, and handicraft Trades?

598. Or, because they have very few Means of acquiring Wealth?

599. Or, does it proceed from Laziness, or from excessive Oppressions?

600. It follows now to speak upon the (5th). Of the Direction of the Finances of the State, or the Oeconomy, which is otherwise termed *the Direction of the Exchequer*: But *We* comprehend all this under the Denomination of *the Oeconomy of the State*.

601. It has been shewed, that five Objects are reckoned up as subject to Imposts for raising the Revenue. But the *Imposts* in a State are like *Sails* upon a Ship, *destined* for her safe *Run* by a *sure* Track, and *safe* Arrival at her *intended* Port; and not for *overwhelming* her whilst continually *floating* upon the Waves, till *she founders at last in the Depth of the Abyss*.

602. Whoever considers *the Oeconomy of the State*, with respect to the Revenue in Money only, sees only

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the

the *final Expence* of it, and does not comprehend the *principal foundations* on which it rests. But he, who examines the *whole Affair* with Attention, and penetrates into the *Interior* of it, will find out the principal *Foundations, Objects, and Ways and Means* which are *most useful* to the State.

603. What are the *first Foundations*, which support *this Oeconomy* by their Strength and Firmness? Nothing, certainly, *but the People*.

604. Hence follows, (*1st,*) The Necessity of encouraging the Increase of Population, in order to produce a greater Number of People in the State.

605. (*2d,*) Of employing them usefully in whatever is necessary, according to the Number of People, and the Extent of the Countries; and of encouraging and assisting the different Arts and Employments, in proportion to the different Degrees of *their being necessary or beneficial*.

606. Here *Agriculture* claims the *first Place*; for as *it alone* nourishes the People; if duly improved, it may bring them into such a happy Situation, that they will soon be Possessors of *all other Conveniencies*. Without Agriculture there will be *none of the first Materials* for the Use of the Manufacturer, or handicraft Tradesman.

607. The

607. The Duty of the *Oeconomy of the State*, is to find out Means for encouraging the Proprietors of Lands.

(1.) That they might reap the *Profit* of the Goodness of the Land of every Kind, *arising* from whatever *Produce* it should yield them.

(2.) That they might endeavour to increase *Fruits, Forests, Trees*, and all other Kind of *Growths* that cover the Surface of the Earth.

(3.) That they might encourage the Propagation of every *Kind* of Animals, and of every *Species* that *creeps* upon the Earth, and *flies* in the Air; which *serve* for the *Improvement of Land*, and which *reciprocally* gives them *Subsistence*.

(4.) That they might employ, for *their Benefit*, the Metals, Salts, Stones, and *other Minerals* and *Fossils*, which conceal themselves within the Earth, and which we *pluck* out, by our Labour, from the *very Bowels* of it.

(5.) And likewise *Fish*, and, in *general*, whatever lives in the Water.

608. Hence is derived the *Root* and *Foundation* of Commerce. By Commerce all these Things are brought into Circulation within the State, or are exported into foreign Countries.

609. The inland, or Home Trade, cannot properly be called Commerce ; it is nothing more, than a *simple Circulation in the same Spot*.

610. True Commerce, *emphatically* so called, is *that*, by the *Means of which* a State procures from foreign Countries whatever Things are necessary, which it does not produce itself, and sends out *in Return* its own *Superfluities*.

611. But Exportation and Importation of Goods are subject to *different* Laws, according to the *Difference* of their Object.

612. The foreign Trade is not always the same.

613. Trade, which is well regulated, and carried on with Care and Assiduity, animates, and supports every thing. If it be *foreign*, and the Balance is on *Our Side* ; and, if Inland, and the Circulation has *no* Obstacles, nor shackles which restrain it ; then, *in both Cases*, Trade inevitably ought to bring a *general and constant* Abundance to the People ;

614. From whence arise Riches ; which are, (1st), *Natural*, or *acquired*.

615. (2^d), *Real*, or *Imaginary*.

616. In the Number of *natural* Riches, *We* may reckon the natural *Genius* of the Inhabitants ; which,
after

after it is *enlightened*, and incited and animated by Zeal, may extend far, and by its *extensive* Progress, bring *great* Utility to the State, and no *little* to Individuals.

617. Countries, which have been examined with Attention, and cultivated with Care, yield rich Harvests, and a plentiful Sufficiency of all the Necessaries and Conveniences of Life.

618. *Acquired* Riches are those, which are produced by Care and Application, indefatigably exerted in handicraft Trades, Manufactures, Arts, and Sciences.

619. Encouragement will conduce greatly to farther Improvement, and more perfect Knowledge in every Branch of these, and more Industry in the Execution of their Productions.

620. One ought also to esteem as *acquired* Wealth, the convenient inland Navigation through *Canals*, cut for that Purpose in Places, which, without *those*, are *inaccessible* to Vessels. The *Extent* of foreign Commerce by Sea, the *Improvement* of Land Carriage, both as to Facility and Safety, by *constructing*, *rebuilding*, and keeping in *good* and *solid Repair*, publick Roads, Bridges, and Ferries.

621. The Number of Particulars, which belong to this Head, is so *extensive*, that the *principal ones* only are here mentioned; but still even these, according to the *Necessities* and *different Circumstances* of Things, are
always

always subject to Alteration. However, this will be sufficient to give an Idea of what *We* mean under the Denomination of *the Oeconomy of the State*. The rest remains for the Consideration of those, who will engage in the Execution of this *important* Part, in order to penetrate into the Depth of it.

622. Of the Riches in a State some are *real*, and others *imaginary*.

623. The real ones are either immoveable, or moveable.

624. They belong either to the Sovereign, or to Individuals.

625. The Riches of the Sovereign are either *simply* his own *Lordships*, such as *certain* Lands, or *Possessions*, belonging to him, in the *same* Manner as to any *other particular Lord*; or, as *Sovereign Lord* over whatever the publick Wealth consists of, which *he possesses by virtue of that Appellation which he derives immediately from God*.

626. The *Wealth of Individuals* consists in whatever they enjoy as Citizens; whose Property is the *Foundation* of the *real Riches* of the State by *these two Methods*.

(1st.) By the *Produce* of every Kind of those Persons, who enter into Trade, and which comes into the *Home Circulation*.

(2^{dly}.) By

(2dly,) By *Taxes*, which an *honest* Man cannot pay otherwise, than by the Means of *this Produce*.

627. The real *Riches*, which consist in the Revenues, are either *constant* or *occasional*, and belong equally with the Lands, either to the *Sovereign* or to *Individuals*.

628. The Revenues, which belong to the Sovereign, are likewise of *two Species*; either as belonging to *him*, as a *particular* Lord, or as to the *Head* of the State.

629. The Sovereign possesses the *first* in his own proper *Right*.

630. But, *as Sovereign*, he reckons,

(1st,) *The Income of all the Property in the State in its full Extent*.

(2dly,) *The Taxes upon whatever the State possesses*.

631. This *last Branch* of the Revenue a *wise Sovereign* never increases, without *extreme* Reluctance; and whenever *he* is *compelled* to do it, he takes particular Care that the Taxes should be regulated in *proportion* to the *Wealth* of the Subjects; and that it should never *exceed* the *Measure* of their Abilities, nor lay a *greater* Burden upon the Citizens, than they can naturally support, or than ought, in *strict Equity*, to be *exact*ed from them.

632. In collecting the Taxes, the *greatest Exactness* ought to be observed, as well as the *greatest Moderation and Humanity*.

633. We ought to observe here, that Gold and Silver, which represent alternately the Commodities, and the Signs of whatever can be made use of in Exchange, are procured either from the Mines, or by Commerce.

634. Gold and Silver are considered either as the *first simple Material* *, or as a Thing *constructed by Art* †.

635. Commodities or Goods, and every Species of moveable Property, are frequently the *Object* of the *interior* Circulation, and of *that Trade* which is carried on with foreign States.

636. And in this Case, especially with respect to *foreign* Trade, it is highly necessary to examine, whether the Traffick with the *first Raw Materials*, together with the *Manufactures* constructed from them; or whether *the One* or *the other* of them is carried on by *our own People*?

637. *Real* Wealth might be greatly increased by that, which is *imaginary*.

638. *Imaginary* Wealth is *founded* upon *Credit* or *Confidence*; that is, upon the ingrafted and received *Opinion* of the *faithful* and *punctual* Payment of a Debt,

* Bullion.

† Bullion coined, which is Money.

when it becomes due, and of the Ability of the Person who is to pay it.

639. *Credit*, or *Confidence*, may be either *that* of the *whole Body of the People*, which is visible in *national Banks*, and in the *Circulation* of some *Signs*, which from *good Regulations* of Government have *acquired the Force* of Credit; or from *Confidence* in *particular Persons*, either as *Individuals*, or as *united in a Company*.

640. As *Individuals*, they may, by their *Integrity*, *upright Conduct*, and *extensive Views*, become *Bankers*, not only for *one State*, but even for *the whole Universe*.

641. *Individuals* may unite together into great or small *Bodies*, in *mercantile Companies*, and then the *personal Credit* of *Individuals* increases the *Credit* of the *Public*.

642. But the *Conveniences* of *natural* and *acquired* *Wealth*, both *real* and *imaginary*, are not confined within the *Limits* of the *present Time*; they *extend* even to the *Future*, by supplying, in *Time of Need*, the certain *Means* for augmenting the *Revenue*. These also constitute an *Offspring* of *the Oeconomy of the State*.

643. These *Means*, or *Expedients*, are exactly circumstanced like *publick Credit*; a *wise Use* of them enlarges, but *the Abuse* as certainly *destroys* them.

644. It is injurious to a State, when it is *totally* ignorant of *these Expedients*, or when it has *continual Recourse* to them. It ought to *seek* for them, as if it could not *do* without them: But, on the *other Hand*, it ought never to make use of them, except in Time of *absolute Necessity*, and even *then* too but *sparingly*, and with *such Precaution*, as if no *new ones* could be found out in future.

645. And the true principal Foundations of the *Oeconomy of the State* lead us to this prudent Management.

646. The general *Oeconomy of the State* is divided into *political* and *domestick*.

647. The *political* comprehends the whole Body of the *People* and *Affairs*, and a *distinct Knowledge* of their *Situations*, *their Ranks*, and their *Employments*.

648. The whole System of *Affairs*, both as to *Particulars* and in *general*, is necessary to be thoroughly known, that one might judge of their *reciprocal Relation* to each other, in order to make *them altogether* useful to the *Community*.

649. The *domestick Oeconomy* comprehends the following Objects, with respect to the principal Foundations of the *Oeconomy of the State*. It ought to preserve the Sources of the *Revenue untouched*, to make them, if possible, yield *more abundantly*, and to draw *Supplies* from

from them, without *exhausting* or reducing them to *Penury*.

650. With respect to *the national Wealth*, it ought to preserve the Lands in a well-cultivated State, and to endeavour to *better them* by Improvement.

651. To *defend just Rights*, to collect *the Revenue* in *such a Manner*, that nothing might be *lost*, which ought to be *brought* into the publick Exchequer:

652. And that, at the Time of discharging the publick Expences, every Part of *the Revenue* should be applied to *those Disbursements* for which it was *appropriated*.

653. That the *Sum-total* of the Expences might not, if possible, *exceed* the *Revenue*;

654. And that the *Accounts* should always be *regularly kept*, and proved by *clear indisputable Vouchers*.

655. From the whole of what *I* have said here upon *the Oeconomy of the State*, it evidently appears, That *this* very simple and very natural Division, and the Assemblage and Connection of general Ideas, *clear* and *intelligible* to all, lead to the *direct determinate* Meaning of *that Expression*, which is of *so much Importance* to the whole Community: That in this Chapter, *all* the Parts enter *one into another*, according to the *Propriety* of that

reciprocal Relation, which *they bear* to each other: That there is not *one* amongst them which does not *depend* upon the *rest*, and that a *single* Connection only of *all* these Parts may *establish*, *strengthen*, and *perpetuate* for ever, the *Safety* of the State, the *Prosperity* of the People, and the *Glory* of the Sovereign.

The Original signed with Her Imperial Majesty's own Hand, thus,

CATHERINE.

ST. PETERSBURGH,

April 8, 1768.



T H E
P L A N, O R S K E T C H,
F O R B R I N G I N G
The SCHEME for the NEW CODE of LAWS
to a Conclusion.

TH E Grand Instructions given to the Commission, which lay down *this Rule* as the principal Foundation, *that we are obliged to do as much good to one another as possibly we can,* produce the natural Consequences described here below.

1st, That every honest Man in the Community is, or will be, desirous of seeing his native Country at the very Summit of Happiness, Glory, Safety and Tranquillity.

2d, And

2d, *And that every individual Citizen in particular must wish to see himself protected by Laws, which should not distress him in his Circumstances; but, on the Contrary, defend him from all Attempts of others, that are repugnant to this fundamental Rule.*

This clearly exhibits *two great Objects* :

I. The Situation of the State.

II. The Situation of the Citizens.

The Nature and Order of Things required this important Division ; which is a *Root* productive of innumerable *Shoots*, which compose not only *all the Parts*, but *the most minute Particulars of every part essentially necessary for the Accomplishment of this great Scheme of Legislation, in its full Extent.*

For the exact Observance, therefore, of the Order, and to insure Success in the Execution, the Commission is to weigh well, and continually to attend to the three first Articles mentioned above in the Grand Instructions.

Hence the Division of the whole Work, into two Parts, will naturally follow.

The first Part is to contain whatever relates to the *general Law* ; which is *calculated* for the *general Good of the whole People*, as composing the *Body of the State*.

The

The second is to contain whatever relates to the *particular Law*, which is made for the *Good of every Individual*.

T H E
F I R S T P A R T
O F T H E
G E N E R A L L A W.

THE *Object* of the *general Law* is the Institution and Observance of the general Forms, indispensably necessary for the Preservation of the *good Order*, and *Tranquillity* of the whole State.

From hence arises the *Existence of the supreme Power*.

The 9th, 10th, and 11th Articles of the Grand Instructions evidently demonstrate how *essentially* necessary, and how *truly* it is the *Interest of Russia* to preserve, *invariably*, that *Form of Government*, which was mentioned in *those three Articles*.

And

And the Right of the supreme Power ever was, is, and ever will be indivisible.

- (1st.) The Legislative ;
- (2^d.) The Protecting ; and,
- (3^d.) The Executive Power.

This whole Power includes in itself the Preservation of *good Order*.

All the Members of the State, as well as Foreigners, who reside in it, ought to submit themselves to the Power of the Sovereign, and to those, whom the Sovereign intrusts with the different Departments in the Government ; and when this Subordination subsists, and good Order is duly observed by *the supreme Power*, and by *all the rest*, then the Subjects look upon themselves as upon *one single Family, whose Father is the Sovereign*.

But as, humanly speaking, it is impossible for the Sovereign to be every where *present in Person*, he therefore, for the Sake of preserving Peace and good Order, substitutes the *intermediate Powers, subordinate to, and depending upon the Supreme* ; which compose the *essential Part of monarchical Government*, as was before expressed in the 18th Article of the Grand Instructions.

The 21st, 24th, and 25th Articles shew, that *the Courts of Judicature are allowed to remonstrate to the Sovereign*

reign, That such or such an Injunction is unconstitutional, &c. For that Reason it ought to be exactly specified,

(1st.) *In what Cases, and in what Manner the Courts of Judicature ought to remonstrate to the Sovereign?*

(2^d.) *In what Cases, and in what Manner, the Courts of Judicature ought to remonstrate to the Senate?*

To these Dispositions a due Regulation, and proper Arrangement of the Parts of the whole Community, ought to be annexed, for the Sake of Order; which consist,

(1.) In dividing the *whole State* into *Governments* :

(2.) The *Governments* into *Provinces* :

(3.) And the *Provinces* into *Districts*.

(4.) A *District* implies a *City* included in it.

Consequently, the different *Ranks* of *Cities* ought to be specified.

For the due Execution of whatever has been mentioned above, a Committee ought to be appointed under the Denomination of *the Order of the Committee of the State, by virtue of the general Law.*

But as this Committee can by no Means labour with Success, unless it be continually under *Our* immediate Inspection; therefore, after *It* is appointed, it ought, by *virtue of the Order and Rules*, to lay before *Us*, in due Time, the Deliberations of the Great Assembly, and the rest of the Committees, with their Institutes; and also, from the Memorials of the Deputies, such Articles, as relate to the Subject Matter of the Petitions: And that Committee is to wait for proper Instructions from *Us*, with respect to the Establishment of *general Order in the State*: By Virtue of the 396th Article, *It* ought to *endow* the Cities with those Privileges, which are divided into two Species, agreeably to the *grand Instructions*, viz. the *general* or *common* Privileges of Cities, and the *particular* ones. The *first* serve for the Establishment of Cities; the *second* for the Preservation of their respective *particular* Welfare.

The *general* or *common* Privileges of Cities are those, which are mentioned in the 393d Article of the *grand Instructions*, in the following Words: "Though there
 "are many different Situations of the Cities, yet they all,
 "in general, agree in this; That one particular Law
 "is necessary for them all; viz. to determine what a
 "City is; who is to be deemed an Inhabitant in it;
 "and who are to compose the Community of that City;
 "and who are to enjoy the Benefit of the Advantages
 "arising from the natural Situation of the Place; and
 "how a Person may be admitted a Citizen?"

The

The *particular* Privileges are those, which are adapted to the *peculiar* Circumstances of any City. This is founded upon the 399th Article of the *Grand Instructions*, in which it was said: *That the Cities of Archangelgorod, of St. Petersburg, of Astracan, of Riga, of Revel, and such like, are Cities and Sea-ports; Orenburgh, Kachta, and many other Cities, carry on other Kinds of Trade: Whence we may clearly perceive, how great an Analogy the Situation of Places bears to the civil Regulations, and that without a thorough Knowledge of all the particular Circumstances, it is impossible to render the Situation of every City beneficial.*

In order that the Cities might obtain these *general* and *particular* Privileges, the Committee, which already subsists under the Denomination of *the Committee for Cities*; ought to be intrusted with the Charge of specifying the *general* Advantages and Privileges, according to the 399th Article; and, in order to obtain a thorough Knowledge of the same, *It* should begin to read the Instructions from the Cities, and should demand *proper* Information from the *Deputies* of *such* respective Cities.

Having settled the *Approach to the Order of the State*, there still remain six Objects relating to the *General Law*.

ARTICLE THE FIRST.

The first of these six Objects includes every Case, where the *civil* Law has any Reference to, or Connection with the *Spiritual*, for the Preservation of good Order, whenever the *spiritual* borrows Assistance and Support from the *Civil* Power. That no Person might have the least Doubt here about *Our* Meaning, *We* shall repeat, what has been mentioned in the 4th Article of the Instructions to the Attorney General, *that it is the peculiar Property of the sacred Laws ever to remain unalterable.* And, consequently, the *Doctrines*, which compose *Our orthodox Religion*, have not the least Reference to *this Part*; which is to consist, for Instance,

1st, In Expedients to prevent *Disturbances*, and to define, *what is meant by the Term Disturbance?*

2^d, In paying due Respect to *Places of divine Worship.*

3^d, In a *due Observance* of the *holy Days*, in *particularising* the Number, and Dates of them, and keeping up *such like Rules and Customs* already received: In all which Cases the *Civil Power* generally gives its Assistance.

4th, In preserving due *Order* and *Decorum* in the *Processions* with the Cross, and other *Spiritual* Rites and Ceremonies.

5th, Not

5th, Not to allow any *Abuses* to be introduced in the *Performance* of the Spiritual Rites and Ceremonies.

Under this Head is ranged whatever *concerns the Clergy in general*, in relation to the Power of the Laws *with respect to their Persons*.

The 289th Article of the Grand Instructions takes Place here, wherein Mention was made, with respect to Marriages, *That it would be highly necessary, and of the utmost Importance to those Citizens, who are of Our orthodox Religion, to define once, clearly and distinctly, the Degree of Consanguinity in which Matrimony is allowed, and the Degree in which it is forbidden.*

At the same Time it will conduce greatly to the Prosperity of the Community, to make Laws *in virtue* of the 494th, 495th, and 496th Articles of the Grand Instructions. For this Purpose a Committee is appointing, which, on all necessary Occasions, is to confer with the *Synod*, and the Committee of ecclesiastical Property, instituted by *Us* in the Year 1762, and to consult about what has been above written.

ARTICLE THE SECOND.

Of the Regulation of Justice in general.

Here the Committee of *Justice in general* is already appointed.

Since

Since all Cases which concern *Justice in general* come under the Cognizance of the *general Law*, therefore a Distinction ought to be made between the *Forms* and the *Essence*, and also between *civil* and *criminal* Cases.

The Forms of administering Justice in *civil* Cases, as well as in criminal, belong to the *general Law*: For this Reason, the Citizens are forbidden to deviate from *It* in the least.

Punishments for Crimes are solely appropriated to the *general Law*, as well as the *Duties* of *Judges*, and other *Persons* belonging to the *judicial Courts*.

Justice in general has the following Objects.

(I.) *The judicial Courts.*

(II.) *The Order, or judicial Forms.*

(III.) *Crimes.*

I. *Of the judicial Courts.*

1. How many Species and *Degrees* of *judicial Courts*, for the Administration of Justice, shall be judged *necessary*?

2. What Affairs ought to be brought before any Court of Judicature, and to the Jurisdiction of which Court they ought most properly to belong?

3. To specify the Power of every Court of Judicature, with respect to the Decision of Affairs.

4. To specify the Power of every Court of Judicature, *with respect to the Property of Lands, and of Citizens, which belong to it.*

5. Of the *Qualification* and *Number* of Members, which it would be proper that every Court should consist of.

6. The Duty of each particular Court of Judicature:

7. The duty of every respective Member in particular.

[The *Committee of Justice in general* is to communicate whatever shall be determined out of *these seven Articles*, to the *Committee of the Order of the State*, in virtue of the *general Law*, and is to wait for its Opinion.] The following Articles belong solely to the *Committee of Justice*.

8. At what Time any Affair ought to be *entered upon*.

9. In what Space of Time it ought to be *decided*.

10. Of the Lawyers.

11. Of the *judicial Order*.

The

The judicial Order requires, in general, two Things, which are,

1st, The Forms of Cases, or Actions.

2^d, The Administration of Affairs.

1. *Of the Forms of Cases, or Actions.*

By the Term *Forms* is understood here, the Regulation prescribed for every Case or Action, without which it is of no Effect, and cannot be admitted in Court. This Regulation consists, for Instance, in a certain Rule for *Contracts, Words, or Expressions* of the *outward Forms*, and such like, which compose the *Case or Action*. Those *outward Forms* are, for Instance, the *Signature* of all the proper Persons concerned; the *Entering* all those Cases, which ought to be made known to the Publick, in Books kept in Places appointed for that Purpose: (For, without this Precaution, it would be difficult to avoid those *possible* Frauds, Losses, and Injuries, which may happen to such as are ignorant of those Cases :) Also the drawing up of Deeds, Cases, Petitions, &c. For all the above-mentioned Objects exact Regulations ought to be established.

2. *Of the Administration of Affairs.*

The Administration of Affairs is the Method of carrying on any Cause in a Court of Judicature, either *civil* or *criminal*.

This

This Method comprehends an Infinity of Particulars ; which however may be divided into these three principal Propositions.

(1.) In what Method, or Manner, an Affair is to be *brought into Court* ?

(2.) In what Manner the Affair is to be *carried on* ?

(3.) In what Manner the Affair is to be *decided* ?

To this Head is to be referred the *Regulation* respecting the *Witnesses*.

III. *Of Crimes.*

The seventh Chapter of the Grand Instructions mentions, *That Crimes are reduceable to four Classes.*

The first Class of Crimes is that against Religion.

The second contains those against Manners.

The third consists of those against the Peace.

The fourth includes those against the Security of the Citizen.

Crimes are *those Actions* which *disturb* the general Order. Having laid down, therefore, *this Division* of
H h Crimes

Crimes as the *Foundation* established in the Grand Instructions, all *Crimes* in general, as well as the *Punishments* they *respectively* merit, ought to be distinctly and clearly *specified*; and the *Committee in criminal Cases* will have the Advantage of inspecting the seventh Chapter of the Grand Instructions, as a *Mirror*, which will frequently afford Light in the Examination of *mixed Crimes*; that is, of those which belong to *two*, or *more* of the *four Classes* above mentioned.

In criminal Cases there are two Species of Plaintiffs.

1. The Persons appointed, and impowered, if we may use the Expression, to be the Avengers of Mankind, who keep a watchful Eye, that a Crime should be examined into, and punished, when the *publick Security* is violated, with respect either *to the State*, or the *private Citizen*.

2. However, it frequently happens, that some particular Person acts as Plaintiff *in criminal Cases*: But he acts in this *Case*, as in a *civil Affair* only; which intermingles itself with *the criminal*; a Distinction, therefore, between these *two Cases*, ought always to be made with the utmost Care and Caution.

As for the rest, the judicial *Forms*, in *criminal Cases*, ought to be, if possible, of the *same Kind* with the judicial *Forms* in *civil Affairs*, *exclusive* of the following *Particulars*, which belong *solely* to *criminal Cases*; as, for Instance,

(1.)

(1.) *What Persons* are to be admitted to Bail, and in *what Cases?*

(2.) *In what Cases* Persons are to be taken into Custody?

(3.) *Who* are to be imprisoned, and in *what Cases?*

(4.) To *specify* the *particular* Proofs of Crimes.

(5.) *In what Case* the Trial of a Criminal cannot be transferred, by Appeal, to the supreme Court?

(6.) Pursuant to the Grand Instructions, *Tortures are here excluded.*

ARTICLE THE THIRD.

Of the Direction of the Army.

The *martial* Laws are included in the *general Law*. But it is necessary just to mention them here; for this Reason only, that *one* Part of the Institutions might not sometimes contradict *another*. To prevent this, a *Committee* ought to be appointed, which should confer, and consult with the *Committees of War* established for the Land and Sea Forces, and, *jointly* with them, *amend* such Laws, as may sometimes require necessary Alterations.

ARTICLE THE FOURTH.

Of the Direction of Manners.

Many Offices in general inspect into those Things, which relate to Manners. Every governor is obliged to keep a strict Eye over *the Manners* of the People under his Authority, just as every Master of a Family does over his Domesticks. But the Care of this more immediately concerns *the Police*, as it is expressed in the twenty-first Chapter of the Grand Instructions.

That the best Measures may be applied for the Attainment of this End, Care ought to be taken,

1st, That, in every Place, *good Order* should be preserved.

2^{dly}, Who are the most proper Persons to judge of good Order?

3^{dly}, That when a Criminal is found, he is to be sent immediately to *the Place* appointed for such People.

For this Part the *Committee of good Order*, or *Police*, is already established.

ARTICLE

ARTICLE THE FIFTH.

Of useful Establishments.

This Article comprehends the following Particulars.

1st, *Seminaries* of Learning, as publick Schools, Academies, and Universities; that is, the *lower*, the *middle*, and the *higher* Branches of Learning.

2^d, Publick Works of Charity for the Infirm, the Weak, and the Indigent; such as Alms-houses, Hospitals, or Infirmaries, and Orphan-houses of every Kind: Under this Head too are to be placed Houses of Correction, &c.

3^d, The Regulation of the general Posts, and Inns for Passengers.

For carrying this Work into Execution with Success, two Committees ought to be appointed. *The first is to assume the Care of the Seminaries of Learning, and the publick Works of Charity, which require it; the second is to take Charge of the general Posts and Inns.*

ARTICLE

ARTICLE THE SIXTH.

Of the Oeconomy of the State, otherwise termed the Direction of the Exchequer.

This Term is of a very extensive Signification, and has for *its Object* Ways and Means for raising Supplies, according to the Necessity of the State, from a certain and sufficient Revenue: This Oeconomy, therefore, may be regarded as the Department which keeps in view those Pillars, which serve as Supports to the whole State.

Hence it evidently appears, that the Business of this Department is divisible into two principal Articles.

1. *The Expences of the State.*

2. *The Revenue of the State.*

But as the *Revenue* ought to be proportioned to the *Expence*, it is evident that the *general certain Rules* consist in these two Points.

1st, In knowing how to collect the Revenue in the Manner least burdensome to the People.

2. In marking and deducting from the Revenue, the Expences necessary at the Time of collecting, and moderating

rating them as much as possible, which will produce an exact Knowledge of the Sum-total of the Revenue.

And consequently, *three Committees* ought to be appointed for this Purpose, which are to work upon the *domestick Situation of Affairs*, viz. the Revenue, the Expences, and the Oeconomy, as it is described in the twenty-second Chapter of the Grand Instructions. The *first* is to be termed the *Committee of Population, of Agriculture, of Oeconomy, of Settlements, of handicraft Trades, Arts, and Manufactures*. The *second* is to be denominated the *Committee of Mines, of the Conservation and Growth of Forests, and of Trade in general*. The *third* is to be entitled the *Committee for Examining the publick Accounts, as to Receipts and Disbursements*.

T H E
S E C O N D P A R T
O F T H E
P A R T I C U L A R L A W.

IT was mentioned above, that the particular Law is made for the Advantage of *every Person in particular*; and consequently must comprehend in itself all those Institutions and Establishments, from which every Citizen
in

in the Community derives Security and Advantage with respect to his Person, to his Property, and to his Obligations, or Engagements. Hence it evidently appears, that, at the Time of drawing up a *Plan*, or *Scheme*, for the New Laws, these Objects ought to be steadily attended to. For whatever comes under the Cognizance of the *particular Law*, is reducible under one of these *three Heads*: And, consequently, this particular Law comprehends in itself,

1. Persons.
2. Things, or Property.
3. Obligations, or Engagements.

CHAPTER THE FIRST.

Of the personal Rights, or of the Situation of every Citizen.

The 358th, 359th, and 360th Articles of the Grand Instructions divide all the Inhabitants into different Classes; from whence arise the Divisions with respect to their personal Rights and Privileges.

ARTICLE

ARTICLE THE FIRST.

Of the Nobility.

In the Grand Instructions given to *the Commission* in relation to the Nobility, it is thus expressed in the following Articles.

In the 360th, — *Nobility is an Appellation of Honour ; which distinguishes all those who are adorned with it.*

In the 363d, — *Virtue with Merit raises People to the Rank of Nobility.*

In the 375th, — *The Prerogatives of the Nobility ought to be founded on all the above-mentioned Qualifications ; which compose the very Essence of the Appellation of a Nobleman.*

Hence it is evident, that when the Rank of Nobility comes under the Consideration of *the Commission*, the following Propositions ought to be duly considered, and clearly explained.

1. What the Rank of Nobility is ?
2. How it may be obtained ?
3. By what Means it may be forfeited ?
4. What

4. What Employments are appropriated to the Nobility?
5. How and when the Nobility begin to serve?
6. To what Punishments they are liable in criminal Cases?
7. In what Manner Disputes between themselves are to be decided?
8. What is the Property of the Nobility?
9. How a Nobleman may quit the Service?
10. How a Nobleman may have Leave to travel into foreign Countries?
11. Upon what Occasions he may leave his Country?
12. At what Age he is freed from Guardianship?
13. Of the last Survivor in a noble Family.
14. Of their Possessions, when convicted of great Crimes.
15. Of Dishonour.

ARTICLE THE SECOND.

Of the middling Class of People.

The sixteenth Chapter of the Grand Instructions sufficiently explain, in general, the Nature of this Class of People, and its Utility.

Therefore the Commission ought particularly to specify,

1. What is the middling Class of People?
2. In what Manner People may be admitted into it?
3. Into how many Occupations it is divided?
4. What particular Advantages every Occupation may be intitled to?

It should seem, that there is no Occasion for any farther Establishments, in relation to the inhabitants of Cities in general. For the real Rights and Privileges of this Sort of People consist in the Privileges annexed to Cities; and the 385th Article of the Grand Instructions mentions, — *that there are Cities of different Kinds.* Whence it appears, that Cities require *particular* Rights and Privileges: To answer which End, the *Committee above mentioned* is appointed; *whose Endeavours* will advance the Prosperity of the middling Class of People.

ARTICLE THE THIRD.

Of the lowest Class of People.

This Class of People is composed of the *labouring* and *most useful* Part of the Country ; but, at the same Time, it cannot be denied, that sometimes this useful Part is oppressed. The Grand Instructions given to the Commission have touched even upon these *general Foster-fathers* of their Country, weighing their Labours, and finding Means to alleviate them : Which evidently appears from the 269th, 270th, 299th, 263d, and other Articles.

Whence it naturally follows, that such Regulations ought to be contrived, as might enable this Sort of People to feel some Alleviation, to render them more capable of supporting their Burthens.

However, in the first Place, the present Situation of this Sort of People ought to be strictly examined into: As, whether this whole Class of People, in the different Territories of Russia, is in *one* and the *same* Situation ? or, whether there shall be found, upon Enquiry, *many different Situations of this Class of People in Our State ?*

It is well known in the World, that there are two *Species of Slavery.*

1st, Real

1st, *Real Slavery*.

2^d, *Personal Slavery*.

Real Slavery is that which renders a Man *dependent*, and *attached* to that *Place*, or *Land*, in which he finds himself situated.

Personal Slavery regards *the domestick Services only*. Sometimes *both* the *real* and *personal* are united in one and the *same* Individual.

With respect to the *Difference of Conditions* of this lowest Class of People, in the extensive Territories of Russia, when some particular Reason of State, or some particular Interest, does not permit the Plowman to be *every where made free*, or from the Fear lest Lands might remain uncultivated *by their Flight*; therefore, can any Expedient (if *We* may use this Kind of Expression) be found to *fasten* and *secure* these very Plowmen to the Land?

To answer *this End*, there are *different Expedients*; but *such Expedients* ought to be *preferably chosen*, which might be of equal Advantage both to the Master and the Plowman. Consequently, none of the Villages stand so much in Need of beneficial Regulations, as those which belong to *the Court*, and to *the Oeconomy of the State*.

It is still necessary to observe here, *That all these Regulations should tend to the Encouragement of every Person*
in

in cultivating the Lands; not only the Plowmen now living, but their Posterity also; and that Agriculture and Population might increase, in proportion to their Number, and the Extent of the arable Lands, which would be equally beneficial both to the Master and to the Plowman.

Whether, by the same Rule, any Expedient could be fixed upon, which might *gradually and insensibly* produce a *certain beneficial Amendment* in the Situation of the lowest Class of People, and might *put a Stop to all those Abuses*, which oppress these useful Members of the Community? Vide the 26th Article of the Grand Instructions.

The distinguishing these three Classes of the State, and the exact Regulation of the respective Rights and Privileges which are *peculiar to each*, is the Office of the Committee, which subsists under this Title, of the different Ranks of People in the State.

Some Petitions of the Deputies from Our military Cossacks must not be here omitted, who desired, *that a Class also might be allotted for them*; and representing, that, according to their present Situation, they do not come under any one of the above-mentioned Classes. As therefore they compose a Part of the Defence of the State, their Petitions ought, without Doubt, to be taken into proper Consideration; and, according to the Nature of their Service, Method of earning their Livelihood, and Manner of Living and Professions, they ought to be furnished

nished with such Regulations, as might enable them to enjoy Peace and Prosperity, as well as all other Subjects who live under the Scepter of Russia.

ARTICLE THE FOURTH.

It is necessary, besides, to appoint a *Committee of the different Institutions relating to Persons*, keeping, at the same Time, continually in mind, what Number there is of *different Nations, and different Religions*, in the Empire of Russia.

Such Institutions, for Instance, as,

1st, The Right of entering into the State of Matrimony.

2d, The prohibited Marriages.

3d, To specify Breaches of the matrimonial Contract.

4th, The Assistance to married Persons for their Support, which ought to be subdivided in the following Manner.

I. The Institution of the Dowry, and how the Husband is to dispose of it?

II. Of the Recompence of married Persons, either with or without Children, after the Death of either.

5. The

5. The *reciprocal Duty* of Parents and Children ; from whence arises,

6. On the *Part* of Parents, due Education to their Children.

7. On the *Part* of Children, filial Obedience to their Parents.

8. The *Power* of Parents, and a *precise* Explanation of *the same*.

But as many Parents die, and leave their Children young ; that is, in such a *weak* and *helpless* Condition, that they are *liable* to be injured by every one ; in such a Case the Laws ought to *protect* a *Citizen*, who cannot speak for himself.

It also frequently happens, that Persons, though arrived at the Age of Maturity, yet, either from Lunacy or Prodigality, require the same Assistance. Therefore it is necessary to appoint the Institution

Of Guardianship.

Guardianship is the Power, which any Person is invested with, over the *Person* or *Property* of an *Infant*, or one who has lost his Senses, or is prodigal to excess.

Whatever

Whatever belongs to this Head, may be divided into the following *principal Particulars*.

1. How many *Sorts* of Guardianship there are?
2. Who has the Power of *placing* Minors, &c. under Guardianship?
3. Who ought *to be put* under Guardianship?
4. Who may be appointed a Guardian?
5. The Regulation of the *reciprocal Duty* of the Guardian to his Ward, and of the Ward to his Guardian.
6. Of the *Power* of Guardians.
7. When, and in what Manner, a Guardian ought to resign his Office, and give up his Accounts?
8. When, and in what Manner, a Ward is freed from the Power of Guardianship?

It frequently happens that People have no Children from their Marriage, and yet are desirous of *adopting* one. From this proceeds the *Method of Adoption*.

It happens too, that People have *illegitimate Children*; it is necessary, therefore, *to regulate how they are to be disposed of*; for the Children which are born have a right to be provided for.

All these regulations require the *utmost Care and Caution*, and are sometimes apt to branch out into many particulars.

CHAPTER THE SECOND.

Of the Right over Things, or Property.

This means *the Right* which every Member of the Community of Citizens *has* over his Property justly acquired.

Property is divisible into two Kinds.

1st, Moveable.

2^d, Immoveable.

Here follows an exact Specification of what composes Property, moveable or immoveable. But this is not the *only* Division to which Property is subject. The 104th and 105th Articles of the Grand Instructions *demonstrate this*; and, according to these Articles, *Wealth is Property, either acquired or inherited from Parents, or Moveables, &c. &c.*

Having explained exactly these Differences, it remains still to determine,

1st, The

1st, The *real* Right which Persons *have* over their Property.

2^d, To specify *all the Means* of *acquiring* that Property, and of *being deprived* of it.

To this Head are referred all the Institutes relating to Inheritances, Divisions of Property, and Wills. And this is the *peculiar* Business of the *Committee of Property*.

CHAPTER THE THIRD.

Of Obligations, or Engagements.

An Obligation, or Engagement, in general signifies, a *Covenant* entered into according to *Truth* and *Equity*, in pursuance of which a Citizen is *obliged* to perform some Things; *which Obligation, or Engagement, produces Deeds or Actions.*

Obligations, or Engagements, proceed from different Causes; as for Instance, from Agreements, or Contracts, or from *tacit* Agreements, &c.

An Agreement in general, is the *reciprocal Accord* of Persons laying themselves under any Obligation.

There are *different Sorts* of Agreements; as for Instance, of *borrowing*, of *hiring*, of *selling*, of *depositing* Things in *Trust* to be preserved for the Owner, of the *Companies* of Traders, &c.

A *tacit* Agreement is an *Obligation*, or *Engagement*, proceeding from *some Circumstances peculiar* to the Affair; as for Instance, when a Man has left his Home, and *not intrusted his domestick Affairs to any one*, and his *Relations* or *Friends* shall, during his Absence, engage themselves in the Care and Management of them, then they, at that Time, make, as it were, a tacit Agreement with him, which is to give him up a faithful Account of their Trust in due Time, and to receive from him a satisfactory Reimbursement of all the Expences, which happened in the Discharge of that Trust; and this cannot properly and strictly *be called* an Agreement, because an Agreement is founded upon *the mutual Accord of two Parties*.

The taking Possession of an Inheritance is a Kind too of *tacit Agreement*, because the Heir, when in Possession of the Inheritance, is *obliged to pay the Debts of the Deceased*.

To this Head are referred,

1st, Faults.

2^d, Actions resembling Faults.

Though

Though the Word *Faults* frequently comprehend every Kind of Crimes, yet here it signifies only *Crimes of the slightest Kind*; for the others are to be termed simply *Crimes*. In a Word, a Fault is an *Injury* done to any one *designedly*; as an Action resembling a Fault is an *Injury* done to any one *undesignedly*.

It is highly necessary to explain minutely, all the Particulars of *Obligations*, or *Engagements*, as well as of *Faults*. Whence will accrue great *Regularity* in the Examination of Affairs; and likewise *Stability in the Prosperity of every individual Citizen*.

For this Purpose, a Committee ought to be appointed under the Denomination of *the Committee of Obligations, or Engagements*. However, every Particular relating to *Mortgages* on *immoveable Properties*, and *the Sale of them* must be referred to *the Committee of Property*.

In concluding this, it is necessary to mention, That all the particular Committees, appointed in virtue of the nineteenth Chapter of the Grand Instructions, ought, *respectively*, to divide their Work into *three Parts*; that is, one Part *upon Laws*, one *upon momentary Regulations*, and one *upon Injunctions*; and whenever the great Commission shall find it *necessary* to *confer*, and *consult* with the Committees upon the Subject of any Regulation, in *that Case*, they must not *fail* to do it.

From the whole of what has been mentioned above, it evidently appears, that *We* esteem it necessary to divide the Legislation into *two* Parts.

First, into the *general Law*.

Secondly, into the *particular Law*.

For framing *the general Law*, the following Committees are now appointing.

1. The Committee of the Order of the State, in virtue of *the general Law*.
2. The Committee of Cities.
3. The Committee of spiritual and civil Affairs.
4. The Committee of Justice *in general*.
5. The Committee for guarding against Contradictions between the *military* and *civil* Laws.
6. The Committee of *good Order*, or *Police*.
7. The Committee of the Seminaries of Learning, and public Works of Charity.
8. The Committee of the different General Posts, and of Inns.
9. The

9. The Committee of Population, of Agriculture, of Oeconomy, of Settlements, of handicraft Trades, of Arts, and Manufactories.

10. The Committee of Mines, of the Preservation and Growth of Forests, and of Commerce in general.

11. The Committee for examining the public Accounts, as to Receipts, and Disbursements.

The Committees for framing *the particular Law*, which is *the second Part*, are

12. The Committee of the different Ranks of People in the State.

13. The Committee of different Institutions relating to Persons.

14. The Committee of Things, or Property.

15. The Committee of Obligations, or Engagements.

All which, including the Committee of *Direction*, the Committee of *Dispatch*, and the Committee for *examining the Instructions*, will amount to *eighteen* Committees, besides *those*, which the Committee of *Direction* shall judge proper to appoint, in aid of any particular Department of the other Committees. The Committee
of

of Direction is to add People to *these particular Committees*, as *It* shall judge proper; as was mentioned in the seventh Article of the Order and Rules for regulating the Commission.

May the Giver of all Goodness, the Almighty God Himself, assist and instruct them all in this difficult Work; a Blessing, which We most humbly beg, and beseech of Him with the utmost Sincerity of Our whole Heart, and We most earnestly pray, That His most sacred Name may be glorified throughout the whole Universe!

Having at present finished this Plan, *We* expect from the Commission for composing the New Code of Laws, their zealous Completion of *Our*, and of the whole general Wish. No one, therefore, should spare either Pains or Ardour, or abate of his Zeal in bringing this great Work to a Conclusion; that *Our Age* might soon enjoy the happy Fruits of those Seeds which are now planted.

The Original signed with Her Imperial Majesty's own Hand, thus,

CATHERINE.

ST. PETERSBURGH,
April 8, 1768.

F I N I S.